

Steven Knight

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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Case No. 2:11-cv-1016

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In Re: Ohio Execution Protocol Litigation,

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Deposition of: STEVEN KNIGHT

Date and Time: Wednesday, August 7, 2019
10:01 a.m.

Place: Federal Public Defender's
Office
10 West Broad Street
Suite 1020
Columbus, Ohio

Reporter: Julieanna Hennebert, RPR, RMR
Notary Public - State of Ohio

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9 Also present:

10 DRC Employee No. 1
11 Mr. Brendan Haas
12 Ms. Katelyn A. Lee Phadke

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1 STEVEN KNIGHT,
2 being by me first duly sworn, as hereinafter
3 certified, deposes and says as follows:

4 EXAMINATION

5 BY MR. BOHNERT:

6 Q. Good morning, sir.

7 A. Morning.

8 Q. My name's Allen Bohnert and with me here
9 today is Adam Rusnak. We represent Cleveland Jackson
10 who is a plaintiff in the litigation with Ohio's
11 legal injection litigation. You know you're here to
12 give a deposition today, correct?

13 A. Correct.

14 Q. And you know you've been identified and
15 designated under Civil Rule 30(B)(6) to provide
16 answers in a deposition today on behalf of Ohio
17 Department of Mental Health and Addiction Services,
18 correct?

19 A. Correct.

20 Q. So for today's purposes you are speaking
21 as if you are the Ohio Department of Mental Health
22 and Addiction Services. You understand that, right?

23 A. I do.

24 Q. Have you been deposed before?

25 A. No.

1 Q. So just kind of, I assume that your
2 attorneys or others have kind of explained to you
3 what today will entail, right?

4 A. Yes.

5 Q. I don't want to ask what they said but
6 just that they have gone over with you kind of what
7 we're going to do today?

8 A. Yes.

9 Q. So basically as I view it we're just going
10 to have a conversation. We are trying to get an idea
11 of some things, some factual information, that kind
12 of thing, and we're hoping that you can help kind of
13 educate us on a bunch of these different things.

14 So it's not adversarial things, I'm not
15 trying to trick you, not trying to play games, I'm
16 trying to learn today and hoping that you can help
17 me. Is that okay?

18 A. Absolutely.

19 Q. So just a couple basic kind of preliminary
20 things since you haven't been deposed before so that
21 we're both on the same page, okay?

22 A. Uh-huh.

23 Q. So I will assume that you understand the
24 question unless you tell me you don't understand the
25 question.

1 A. Okay.

2 Q. Okay?

3 A. Uh-huh.

4 Q. And I will assume that you understand the
5 question when you answer that question. Is that all
6 right?

7 A. Yes.

8 Q. Please answer all questions with an oral
9 response rather than a nod or a shake of the head; is
10 that okay?

11 A. (Nods head.)

12 Yes.

13 Q. And that's just, the court reporter can't
14 write down a nod or shake or whatever, so just a
15 verbal response to something would be helpful.

16 A. Okay.

17 Q. And because there's only one of her and
18 there's two of us, if we're both talking at the same
19 time it makes it exceedingly difficult for her to
20 produce an accurate record of what we said here
21 today, so I'll just ask that we both kind of respect
22 each other and only one of us talk at a time.

23 So if I'm asking a question, wait till I'm
24 finished asking the question and then answer it. At
25 that point if you don't understand, that's where you

1 say I don't understand, or can you help me understand
2 what the question is.

3 And there may be some of those, I'm not
4 going to lie. So at that point just if you could
5 just make sure that we're not both talking at the
6 same time, that would be great, okay?

7 A. Absolutely.

8 Q. Perfect. If at any point, and I realize
9 it gets warm in here, if you need to take a break, if
10 you need to use the restroom or anything like that,
11 you can just let us know and we'll try to accommodate
12 that. The only thing I ask is that you don't ask to
13 take a break while there's a question pending. Just
14 finish the question and then we'll address the break
15 issue, okay?

16 A. Sure.

17 Q. Now, just to be clear on a couple things
18 regarding identities and things of that nature. So
19 there's a couple things. One that shouldn't really
20 affect matters here today and that is that in this
21 case going back many, many years now several people
22 have been identified not by their names but only by
23 identifying numbers, Execution Team Member whatever.
24 Okay?

25 I don't anticipate that that's going to be

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1 an issue here today because I don't know that I
2 anticipate asking any questions that would go to the
3 Execution Team members. But if I do somehow, please
4 understand I'm not asking for their names, I'm asking
5 for their reference by number.

6 In that case you probably would need to
7 consult with counsel from the Attorney General's
8 Office who have been litigating the lethal injection
9 case. As I said, I don't anticipate that's going to
10 be a problem.

11 A. Okay.

12 Q. Corollary to that is that your counsel
13 here today Ms. Carwile and I have kind of worked out
14 what I think is hopefully an understanding and
15 agreement that while Plaintiff Jackson doesn't
16 concede that persons who would be potentially
17 discussed here today who are, say, employees or
18 agents of the, can I say ODMH, is that still the
19 accurate acronym?

20 MS. FRANKE: It's actually MHAS because
21 we're Mental Health and Addiction Services as of
22 2013.

23 MR. BOHNERT: Is there like a shorter?

24 MS. CARWILE: You could say OPS, Ohio
25 Pharmacy Services since that's where he's from.

1 Q. We'll just use "OPS" then, is that okay?
2 Plaintiff Jackson doesn't necessarily agree or
3 concede that anybody that you would talk about from
4 OPS would be entitled to anonymity or
5 confidentiality.

6 That being said, for purposes of today's
7 deposition we've agreed that if at any point you need
8 to discuss names that are not on documents or
9 whatever, then let's make sure that you're going to
10 consult with your counsel to make sure that the
11 person you're referring to is identified consistently
12 by a number or something along those lines, okay?

13 A. Absolutely.

14 MR. BOHNERT: Is that, Ms. Carwile,
15 acceptable to you?

16 MS. CARWILE: Yes. And I want to let you
17 know after our conversation the Department of
18 Rehabilitation and Corrections let me know that an
19 individual with them that wants confidentiality that
20 I don't think has a number because the statute does
21 put civil liability on people that disclosed that
22 name and we haven't had time to resolve that issue,
23 he's going to identify that person as DRC Employee
24 No. 1.

25 If you need that person's identification

1 we would prefer you try to get that from DRC since
2 they're one of the parties in the case.

3 MR. BOHNERT: So just so I'm understanding
4 you clearly, this person is not an Execution Team
5 member and is an employee in some other capacity with
6 DRC; is that correct?

7 MS. CARWILE: I don't know their status on
8 the Execution Team. I know that they don't have a
9 number but they do want confidentiality.

10 MR. BOHNERT: So if they don't have a
11 number then -- yeah, okay. Well, certainly we
12 obviously wouldn't necessarily agree or concede to
13 that but for purposes of today's deposition and the
14 interest of not bringing things to a grinding halt
15 over something that may not be an issue, let's
16 proceed and we'll operate under RC, what did you say
17 DRC Employee No. 1?

18 MS. CARWILE: Yes. Thank you.

19 Q. (By Mr. Bohnert) Steve, right?

20 A. Yes.

21 Q. Steve, let's talk a little bit about what
22 you did to prepare for today's deposition. I'm
23 handing you what I guess we may as well mark as
24 Deposition Exhibit 1.

25 (DEPOSITION EXHIBIT 1 MARKED.)

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1 Q. What we'll do when we work with an exhibit
2 is I'll hand it first to the court reporter, she'll
3 mark it so that we're all on the same page about
4 what's what, and she'll hand it to you, and generally
5 have a courtesy copy for your counsel as well.

6 A. Okay.

7 Q. So I've handed you what's now been marked
8 Deposition Exhibit 1. Do you recognize what this
9 particular document is?

10 A. I do.

11 Q. And can you tell me what it is? What do
12 you recognize it to be?

13 A. A subpoena to be here today.

14 Q. Okay. And you received this subpoena; is
15 that right?

16 A. Yes.

17 Q. And if you turn to I guess it would be
18 page -- 1, 2, 3 -- 4 and thereafter, is it accurate
19 to say that this Attachment 1 starting around on
20 page 9 or so sets out deposition subject matters that
21 are to be fair game here for today? Is that right?

22 A. Yes.

23 Q. And so have you reviewed the deposition
24 subject matters list?

25 A. Yes.

1 Q. So tell me what else that you did to
2 prepare for today's deposition. Other than just
3 simply reading through the list of topics on
4 Attachment 1.

5 A. There were requests of documentation that
6 was provided, that we provided to, I guess to you.

7 Q. "You" meaning your counsel?

8 A. Yes.

9 Q. And then they provided them to us.

10 A. Yes.

11 Q. So were you involved in actually obtaining
12 or searching for those documents? Or you're just
13 saying you knew that it happened? Kind of describe a
14 little bit for me what you mean by that.

15 A. For part of the documents that was in our
16 systems I searched for those documents myself.

17 Q. And did you do anything else to prepare
18 for today's deposition?

19 A. I had a couple meetings with my counsel.

20 Q. Okay. And how long would you say that in
21 total, not getting into the substance of what you
22 talked about but just in general how long would you
23 say you spent meeting with your counsel to prepare
24 for the deposition here today?

25 A. All meetings total?

1 Q. Correct.

2 A. Five hours.

3 Q. Okay. Did you talk with or interview with
4 anybody else for today's deposition other than you
5 identified your counsel here today?

6 A. Just Department of Mental Health counsel
7 also.

8 Q. And who is that?

9 A. Janice Franke.

10 Q. Anybody else?

11 A. The CEO for Office of Support Services.

12 Q. The office of what, I'm sorry?

13 A. Pharmacy Services, sorry.

14 Q. And who is that?

15 A. Brandon Haas.

16 Q. And are those two meetings included in
17 that total aggregate of five hours that you mentioned
18 a moment ago?

19 A. Yes.

20 MS. CARWILE: I want to object. He seems
21 to be having a little question about names so I just
22 want to instruct him, if you don't mind.

23 If it's in relation to the execution drugs
24 and pertaining to them, that's where we're going to
25 use Person No. 1 and Person No. 2. If we're just

1 talking about personnel in general and who you spoke
2 with and who is in the Department, you are allowed to
3 give those names.

4 THE WITNESS: Okay, thank you.

5 Q. So to be clear, I'm not asking right now
6 about anything related to obtaining drugs of any
7 kind, I'm simply trying to lay the foundation or get
8 an understanding of what you did to prepare for
9 today.

10 A. Okay.

11 Q. So you mentioned meeting with your
12 counsel, meeting with OPS counsel and the CEO of OPS.
13 Anybody else that you met with in preparation for
14 today's deposition?

15 A. Not to my recollection, no.

16 Q. And you said you spent approximately five
17 hours in those meetings; is that right?

18 A. Total.

19 Q. And did you review any, I mean you
20 mentioned that you were involved in initial review
21 for production of documents in response to the
22 subpoena. In preparation for today's deposition did
23 you actually review any of the documents themselves
24 that have been identified and produced?

25 A. I didn't specifically go over any of that

1 particular data or anything like that.

2 Q. But are you prepared to discuss, explain,
3 testify about any of those documents that were
4 produced to us?

5 A. Absolutely.

6 Q. Did you, so we've got the meetings with
7 counsel, meetings with the CEO, you testified about
8 having been involved in production or review for
9 production of the documents. Is there anything else
10 that you did to prepare for today's deposition that
11 you can think of?

12 A. Not that I can remember.

13 Q. So let's talk about some background a
14 little bit so I can get an idea of how you came to be
15 here with all of us in this wonderful stifling room.

16 Steve, can you tell me what is your
17 position within OPS?

18 A. I'm the supervisor of the procurement and
19 warehouse.

20 Q. And what does that mean? Like what are
21 your job duties in that capacity?

22 A. So I manage the day-to-day operations of
23 the warehouse operations and procurement staff, part
24 of the leadership team of our whole operation.

25 Q. Now you'll have to forgive me because I

1 feel like I don't have a good understanding of what
2 exactly OPS entails, what it is, and we'll get kind
3 of some drilling down into some of those specifics
4 here in a little bit, but just in terms of your
5 statement about management of the warehouse, explain
6 that a little bit more.

7 What do you mean by the warehouse and
8 managing the employees there and that kind of thing?
9 What is it that you do on a daily basis I guess?
10 Help me understand that a little more.

11 A. So the warehouse is a typical distribution
12 type warehouse that receives orders from customers,
13 those orders are sent out to the warehouse to be
14 picked, packed, and shipped and delivered.

15 And as questions arise, data evaluation,
16 you know, evaluating how the operation's going, are
17 we as productive as we should be, are we not as
18 productive as we should be for a typical distribution
19 type business.

20 And then the procurement operation is
21 obviously the procuring of all the items that we
22 carry and ensuring that it's following the proper
23 procedures, answering questions and things like that
24 how to stock products and so on.

25 Q. Just so I'm clear, when you say "we" and

1 "our" and that kind of thing, specifically who is
2 "we"?

3 A. "We" being, from the way I was meaning it
4 was "we" being OPS as an operation.

5 Q. And so I guess let's talk about some of
6 that basic kind of organizational stuff then so I
7 have a better understanding of what everything is,
8 what all is going on.

9 So I know that there's the Ohio Department
10 of Mental Health and Addiction Services, I know
11 there's the Ohio Pharmacy Service Center, no S,
12 right?

13 A. Uh-huh.

14 Q. Am I correct in that?

15 A. Service you're saying "center" versus
16 "centers"?

17 Q. I don't know. You tell me.

18 A. I mean that's what you're saying no S?

19 Q. No, it's not Ohio Pharmacy Services
20 Center, it's Ohio Pharmacy Service Center, not to be
21 confused with as I understand it the Ohio Pharmacy
22 Services; is that right?

23 A. To my knowledge we're talking about the
24 same people.

25 Q. Okay. So as I understood it there is the

1 Department of Mental Health and Addiction Services
2 and my understanding was there was sort of the
3 umbrella sub-office of the Ohio Pharmacy Service
4 Center within which then there's the Ohio Pharmacy
5 Services and there's the Central Pharmacy Inpatient
6 and Central Pharmacy Outpatient.

7 A. Sorry, I misunderstood you.

8 Q. Do I have that?

9 A. I did misunderstand your previous
10 question. That is correct.

11 Q. So I just want to make sure that we're
12 precise in our language because at times there's been
13 discussions of the Ohio Pharmacy Services Center and
14 I think my read on that is that kind of confuses
15 whether we're talking about Ohio Pharmacy Service
16 Center or Ohio Pharmacy Services. And I understand
17 them to be kind of two subtly distinct terms.

18 A. To clarify that I think.

19 Q. Please.

20 A. Ohio Pharmacy Services is the
21 encompassing, Pharmacy Service Center is the
22 warehouse.

23 Q. Tell you what, let's do this. Can you
24 draw me a diagram so I can understand kind of like an
25 organizational flowchart I guess if you would. At

1 the top we'll start with ODMA -- at the top start
2 with Ohio Department of Mental Health and Addiction
3 Services and then help me understand how it goes from
4 there.

5 A. That's Ohio Pharmacy Services.

6 Q. When you say "OPS" on your diagram?

7 A. Yes. And within here is the CPIP, Central
8 Pharmacy Inpatient, as you said.

9 Q. Okay.

10 A. CPOP, Central Pharmacy Outpatient.

11 Q. Okay.

12 A. PSC, Pharmacy Service Center. And then
13 I'll just kind of lump everything else into
14 administrative transportation, that type of stuff.

15 Q. Okay.

16 A. And there's obviously more within the ODMH
17 side.

18 Q. So in looking at the diagram then when you
19 are talking about the warehouse, for instance, that
20 is the warehouse run by OPS the sort of umbrella
21 office for Central Pharmacy Inpatient, Central
22 Pharmacy Outpatient, Pharmacy Service Center, and the
23 administrative operations, correct?

24 A. Correct.

25 Q. And what is it that OPS does when you say

1 stock product or procure product, help me understand
2 that a little bit more, please.

3 A. We buy the product in what I'll call is a
4 bulk form and take customer orders and we'll break
5 that bulk form down into order level quantities and
6 deliver that to them.

7 Q. When you say "product," what do you mean?
8 Are we talking about just pharmaceuticals, are we
9 talking about not pharmaceuticals? Help me
10 understand that. Assume that I know nothing, as many
11 of the other folks in this room do, just assume that
12 I know nothing and help me understand that on like a
13 second grade level.

14 A. Pharmaceuticals obviously, medical
15 supplies, personal care items. Small amount of
16 office type supplies; pencils, papers, that type of
17 thing.

18 Q. Okay.

19 A. Over-the-counters which could be under the
20 pharmaceutical side.

21 Q. And who are the customers? Like who
22 purchases -- I assume if somebody wants something
23 from OPS they have to purchase it from OPS; is that
24 right?

25 A. Correct.

1 Q. So even if it's the State of Ohio moving
2 money from one pocket to another from, for instance,
3 Department of Rehabilitation and Corrections, do they
4 have to then exchange money to obtain a product from
5 OPS?

6 A. Yes.

7 Q. Who else are the customers?

8 A. So it's defined by the Ohio Revised Code
9 that states who is allowed to purchase product from
10 us.

11 Q. And is it like all Ohio agencies, is it
12 like if I as a private citizen were to come and speak
13 with you: Hey, Steve, I'd like to get my hands on
14 blank product? Can I do that as a private citizen?

15 A. No.

16 Q. So what is sort of the requirement in
17 order to be able to purchase from OPS?

18 A. Generally speaking, I'm not quoting the
19 Ohio Revised code.

20 Q. Sure.

21 A. But it states state agencies that are
22 nonprofit agencies. There are some free clinics,
23 like I said the Department of Corrections, Department
24 of Mental Health, Department of Youth Services. What
25 I'll call opiate addiction clinics. But everything

1 is a nonprofit type of organization. It definitely
2 cannot be a for profit type organization.

3 Q. So OhioHealth can't come to you guys and
4 say we'd like to buy product from you.

5 A. Absolutely not.

6 Q. So in terms of the Pharmacy Service
7 Center, explain kind of the specifics of what is it
8 that PSC does specifically.

9 A. I would guess I would say there's two
10 pieces to that. There's the procurement side of the
11 product, and there is what I term as the warehouse
12 side of the product. Again, for a general view of
13 how this looks would be a standard typical
14 distribution business.

15 So a purchase order would be created to a
16 vendor, the product would be received in our
17 warehouse, it would be put away into stock. The
18 customer order would come in, the order would be
19 placed in the system, it would tell them, the store
20 keepers staff, this is the items on that order. They
21 would walk through the warehouse, pick each item
22 that's on there, it's packed, what we call shipped or
23 delivered.

24 Q. So if I'm understanding you correctly it
25 sounds to me that PSC is the part of the procurement

1 operation where you, PSC, would go out in the
2 marketplace to say AmeriSourceBergen or Cardinal
3 Health, any of these main distributors to obtain drug
4 products not necessarily on demand but just that you
5 would maintain a stock of a certain list of drug
6 product that you would go and get and bring in to PSC
7 and just have in inventory in your warehouse; is that
8 right?

9 A. Correct. Based on a systematic use of
10 setting inventory levels and what you're going to
11 sell in that amount of time.

12 Q. Now, does PSC also act -- let me back up.

13 My understanding of what we just talked
14 about was that that is sort of a prearrangement. In
15 other words, when the customer comes to you you've
16 already got the product in stock in theory at PSC and
17 you just process it from there, send it out the door,
18 and it doesn't involve PSC at that point having to go
19 out and look for it in the broader open marketplace,
20 right? Assuming you have it in stock.

21 A. Yeah, assuming it's available in stock.
22 We do receive special requests. I wouldn't call
23 necessarily special requests, new medication might
24 come on the market or there's a particular something
25 that needs to be treated and the prescription would

1 have been maybe written for a particular drug or
2 something like that. So what we stock is all based
3 on movement.

4 Q. So you actually I guess anticipated my
5 next question, which was if somebody or an agency or
6 if somebody who's allowed to purchase from PSC comes
7 to PSC and says I would like to get this product, you
8 look in your inventory and no, we don't carry it, can
9 you then go out and look for it in the broader open
10 marketplace?

11 A. Yes.

12 Q. So we have OPS the broader umbrella, we
13 have Pharmacy Services Center, "center," right? Not
14 "centers"?

15 A. Not "centers."

16 Q. Not like Centers for Disease Control?

17 A. Yeah, no.

18 Q. Help me understand where Central Pharmacy
19 Inpatient fits in this web of things in the drug
20 procurement process.

21 A. Central Pharmacy Inpatient is a customer
22 of the warehouse, or PSC. They place orders from us
23 and we follow that same process of getting the
24 product to them. We again, as I stated earlier, we
25 buy the product in bulk, which could be a bottle or a

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1 package of in the pharmaceutical world pills. Could
2 be a hundred count bottle, could be a thousand count
3 bottle. So that's where we call it bulk. And we
4 would deliver to the Central Pharmacy Inpatient.

5 They are a patient label filling operation
6 versus we are not patient labeled, we are just the
7 bulk product.

8 Q. Help me understand that a little bit more.
9 When you say "patient labeling" because I've heard a
10 lot of terms in the course of this litigation and
11 that is one that I have never heard. Help me
12 understand that a little bit. I suspect it's fairly
13 simple but again treat me like a dummy, help me
14 understand.

15 A. If you went to your local pharmacy and got
16 a prescription, that would be the same. So the
17 prescription would come in to the Central Pharmacy
18 Inpatient and they would fill the prescription.
19 Which is to a particular person, not bulk.

20 Q. And they in turn would come to Pharmacy
21 Service Center as the first stop -- well, I shouldn't
22 assume. They would come to Pharmacy Service Center
23 to fill that need of a product.

24 A. From a bulk perspective, correct.

25 Q. Now just to be clear because the term

1 "bulk" can sometimes be a little confusing, did
2 you -- I appreciate that you kind of defined it
3 somewhat. To be clear when you say "bulk," you're
4 not necessarily just referring to say like the raw
5 powder form of a product that might then be
6 compounded or anything, right?

7 A. No.

8 Q. But could you obtain like if an order came
9 in that somebody wanted the raw active pharmaceutical
10 ingredient, the API of something powder, could you at
11 Pharmacy Service Center go out and look to purchase
12 it?

13 A. I guess the best way to describe it would
14 be, yes, I can search for anything.

15 Q. Okay.

16 A. Whether it's available to us or not is a
17 separate question.

18 Q. Right, of course. But in other words,
19 you're not, PSC, you are not limited to just
20 purchasing product that is manufactured by an
21 FDA-approved manufacturer, correct?

22 A. To answer the question I can't imagine us
23 purchasing anything that would not be approved
24 medication.

25 Q. Well, I guess like, for instance, the

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1 active pharmaceutical ingredient in a drug that might
2 want, that might ultimately be compounded, right,
3 that's not necessarily a manufactured product,
4 manufactured by an FDA-approved manufacturer. You
5 see what I'm saying?

6 A. Uh-huh.

7 Q. But it's still something that say a
8 customer might want and might come to you to look to
9 get it. I guess my question is would you guys be
10 able to go out and look to purchase the API in that
11 situation?

12 A. We would.

13 Q. There's no restrictions on you being able
14 to do that.

15 A. Not that I -- anything that would be out
16 of the ordinary type process I'm sure we would check
17 with any pharmacy laws or anything like that to
18 ensure it's, as long as I guess the statement is if
19 you're talking about legal type products that are,
20 yes, we could go find that type of thing.

21 Q. So if I were to make a, if I were to
22 modify your diagram just a little bit, make sure I'm
23 using the right terms. I'm handing you, let's mark
24 this diagram that you made as Deposition Exhibit 2.

25 (DEPOSITION EXHIBITS 2 - 3 MARKED.)

1 Q. Steve, I'm going to hand you my crudely
2 drawn diagram here. On the diagram we've got a
3 handful of boxes in sort of a flowchart order. On
4 the bottom there's a box that says "customer," one
5 level up from there there are a couple boxes, one
6 that says CPIP, which stands for Central Pharmacy
7 Inpatient, another box at the same level that says
8 CPOP, Central Pharmacy Outpatient, and box above that
9 that says PSC or Pharmacy Service Center. Did I
10 accurately describe that?

11 A. Yes.

12 Q. Now, if you could, using a pen can you
13 just, I think it should be fairly common sense but I
14 want to make sure I understand the sort of flow, if
15 you could help me diagram the flow of a request for a
16 purchase of a drug product and then the flow of that
17 drug product from the bottom to the top and then back
18 down again. All right?

19 I realize the diagram's crude but is it,
20 at its basic level would an order start with the
21 customer on the bottom?

22 A. Yes.

23 Q. And then go to say Central Pharmacy
24 Inpatient if the customer was say Ohio Department of
25 Rehabilitation and Corrections?

1 A. Yes. There could be different paths based
2 on which customer.

3 Q. Okay. Let's say we're talking
4 specifically about ODRC.

5 A. Okay.

6 Q. So if you could draw an arrow that would
7 indicate the flow of the request. Would it go
8 directly from the customer to PSC or would it go from
9 the customer to CPIP?

10 A. And I'm going to throw another twist here.

11 Q. That's fine, please.

12 A. It depends on the product.

13 Q. Okay. Help me understand that, what do
14 you mean?

15 A. So if the Department of Corrections is
16 asking for a personal care item, shampoo, a brush, a
17 medical supply, things of that nature, it would come
18 directly to Pharmacy Service Center.

19 Q. So things that would not ordinarily
20 require a prescription.

21 A. Correct.

22 Q. What if we're talking about a particular
23 controlled substance, for instance? I mean I assume
24 PSC doesn't just hand those out to anybody.

25 A. Not at all.

1 Q. So let's imagine that it's DRC is the
2 customer and they are wanting to get a controlled
3 substance that would be used specifically for an
4 individual, okay?

5 A. Uh-huh.

6 Q. Illustrate on that Exhibit 3 here for me
7 the direction of how the request would go and then
8 communicate back down with downward arrows the chain
9 of that drug product back to the customer.

10 A. Okay.

11 Q. Does that make sense?

12 A. It does. Can I ask a clarifying question?

13 Q. Absolutely, please.

14 A. You're saying a request from the
15 Department of Corrections for I'm going to say a
16 prescription whether it's controlled or prescription
17 based medication.

18 Q. Sure.

19 A. For a particular individual. You want me
20 to draw a line how the request gets processed and how
21 it gets shipped back to them.

22 Q. Yes.

23 A. Okay.

24 Q. So the upward arrows are the request.

25 A. Yes. So to explain my delay here, there

1 is medications that are stored, they're not ordering
2 for an order for order type basis typically.

3 Q. "They" being CPIP.

4 A. Right.

5 Q. They wouldn't necessarily, so you're
6 saying if I understand you correctly that CPIP
7 themselves might have some stock of medications that
8 they wouldn't even need to come to you at PSC to get?
9 They could just handle the order?

10 A. Let me clarify that just a little bit.
11 But at some point in time if it was even sitting on
12 their shelf, it did come from us. So at some point
13 in time this process is a hundred percent.

14 Q. When you say "this," you're pointing to
15 the document that is Exhibit 3 with the arrows up and
16 down, right?

17 A. Correct.

18 Q. Just for purposes of the record.

19 So let's talk specifically, and I guess to
20 clarify, your position specifically, you Steve, you
21 are near the top of this chain there at PSC, right?

22 A. Correct.

23 Q. And so you're in fact the one who's
24 responsible for all the procurement operations by
25 PSC, correct?

1 A. Correct.

2 Q. So if we were to add an additional, say
3 we'll do this, AmeriSourceBergen, Cardinal Health, et
4 cetera. So I've just added a couple boxes above
5 Pharmacy Services Center.

6 If my understanding of the system is
7 correct, there would be arrows going up from PSC out
8 to these drug sources or drug distributors that would
9 be the places where Pharmacy Services Center would
10 procure the drugs; is that correct?

11 A. Correct.

12 Q. So if you could just draw the same kind of
13 thing, I mean again I think it's common sense but I
14 just want to make sure because my wife says I don't
15 have any.

16 If we go up from PSC out into the
17 marketplace and those drugs then come back on PSC.
18 In other words, the drugs don't come from say
19 Cardinal Health or AmeriSourceBergen all the way
20 directly to the customer, right?

21 A. Correct.

22 Q. I just want to make sure I have a visual
23 understanding of that.

24 A. And those lines represent the et cetera, I
25 wasn't pointing to a particular one.

1 Q. And this is just a hypothetical and I'm
2 not specifically saying any particular drug product.
3 Just in general trying to understand the ordinary
4 sort of transactional kind of flow --

5 A. Sure.

6 Q. -- of how things would work.

7 So let's talk specifically now as it
8 relates to drugs that would be used for executions.
9 You with me?

10 A. Uh-huh.

11 Q. Yes?

12 A. Yes. Sorry.

13 Q. So describe for me the process, and you
14 can feel free to indicate there on Exhibit 3 as you
15 need. Using a different color than blue if you
16 could, if you could describe for me and walk through
17 for me the process by which ODRC obtains drugs to be
18 used for executions, please.

19 A. So to my knowledge I have not been, has
20 not been said to me or to our operations that this
21 particular medication is for an execution process.

22 Q. Okay. You anticipated one of my questions
23 here later on down. I like where you're thinking.

24 So to make sure I understand, you're
25 saying that when ODRC is purchasing -- or, let me

1 rephrase.

2 When a drug to be used, intended to be
3 used for execution is being procured, purchased with
4 the idea that it's going to go back down to the
5 customer level of DRC, the information of what that
6 drug's going to be used for is not conveyed to the
7 people at PSC?

8 A. Correct.

9 Q. I guess I should actually include one
10 other kind of clarification within PSC.

11 A. Okay.

12 Q. I presume, although maybe I shouldn't,
13 that you, Steve, are not the sole person who's
14 actually sitting down at a terminal, computer
15 terminal or a telephone and actually going out into
16 the marketplace and finding and purchasing all these
17 drug supplies; is that correct?

18 A. That is a correct assumption, yes.

19 Q. Help me understand how that happens.

20 A. So we have other purchasing agents --

21 Q. Within PSC?

22 A. Within PSC that are responsible for
23 procuring anything from, any of those products that
24 I've talked about that we carry; pharmaceuticals,
25 medical supplies, personal care, any of that.

1 Q. Okay. And so their job is to go out and
2 get the product.

3 A. Correct.

4 Q. And you're the supervisor of those, can I
5 call them buying agents? What's the term you use?

6 A. Technical term is sourcing analyst.

7 Q. Okay. So the sourcing analysts are the
8 ones who take an order and then say do we have it in
9 stock, if so yes, sell it, if we don't have it in
10 stock, can I go find it out in the marketplace; is
11 that accurate?

12 A. Close but I'm going to clarify it a little
13 differently.

14 Q. Please do.

15 A. Orders from our customers are placed to
16 the Pharmacy Service Center, our sourcing analyst.
17 We use a sophisticated requirements planning system
18 that looks at history, seasonality, lead time, all of
19 those type of things that it takes into consideration
20 for us to have the product on the shelf.

21 Q. Okay.

22 A. Prior to the customer placing the order.

23 Q. Okay.

24 A. So it is a quick turnaround. It's
25 possible out of stocks happen and it would pop up an

1 alert and hey, this is something you need to buy, so
2 they would go out and buy it.

3 Does that make, clarify the difference?
4 We don't specifically look at every customer order
5 and say do you have it, do I need to buy it.

6 Q. Okay. So if an order comes in, the
7 computer will tell you hey, we got it in stock,
8 process it, send it out.

9 A. Absolutely.

10 Q. But if it's not in stock then the sourcing
11 analyst?

12 A. There you go.

13 Q. The sourcing analyst would be the ones who
14 would then go out in the marketplace and look for
15 where they could obtain it from, correct?

16 A. Correct.

17 Q. And it might sound rudimentary but tell me
18 how they do that. On the telephone, are we talking
19 computer, are we talking carrier pigeons?

20 A. We've recently stopped the carrier pigeon.

21 Q. Yay progress.

22 A. Yes. We have, we follow all the State
23 procurement laws so we can't just go to necessarily
24 anybody but we have state contracts, we have a direct
25 spending authority, there are laws around that we

1 have to have special, looking for the best price and
2 those type of things. But following those contracts
3 we would go to that particular source and look for
4 that medication.

5 Q. So two things there, when you say follow
6 the best price, what do you mean by that?

7 A. So there's a state contract that states
8 this is who your primary vendor is for this
9 particular type of product that we carry. So we have
10 pharmaceutical, we have medical supplies, we have
11 this. And that contract says that you need to buy
12 that product from this particular person -- or, not
13 person, excuse me, company.

14 Q. Okay.

15 A. Now, if that company is out of that
16 product, we would look somewhere else.

17 Q. Someplace that might not be contracted.

18 A. That is possible, yes. And we would use
19 different kinds of spending authority to do so but
20 it's all within the state procurement laws to do
21 that.

22 Q. If you need to purchase a product, you
23 being PSC need to purchase a product because you
24 don't have it, is that required to be, like are there
25 a minimum number of bids that you need to identify

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1 and then you're bound to take the lowest bid? Is it
2 just can you go wherever if the contracted typical
3 source doesn't have it? I mean explain that process
4 a little bit for me.

5 A. First step would be if there is a
6 contract, if that product is not available on a
7 contract which could be a primary contract or
8 potentially like a backup contract, we would have to
9 get three bids.

10 Q. Okay.

11 A. And I'm not talking about a specific
12 product, I'm just talking state policy on buying
13 something.

14 Q. Just any product.

15 A. Yes, exactly. We would get three bids,
16 three competitive bids and we would take into
17 consideration the price, could be availability, could
18 be delivery time.

19 So just because somebody is 2 cents
20 cheaper and it's going to take them six weeks to get
21 it and I'm paying 2 cents more and I can get it
22 tomorrow and it meets what my customer needs, we
23 might pay the 2 cents more because we had to wait six
24 weeks. So there are other things just than lowest
25 price.

1 Q. Gotcha. What if there's not three bids
2 that you can obtain? Let's say you can only get two
3 because nobody else has the product but two people or
4 two entities do. Is there a way that that three bid
5 requirement falls by the wayside or are you just kind
6 of out of luck?

7 A. If you can only obtain two bids, which I'm
8 just trying to think back if we've had that situation
9 where we haven't, because another, you can use
10 something as simple as Google to go find people that
11 supply that item.

12 If it was something that we could not
13 obtain three bids on, we would probably go through
14 the process of like a sole source, that this can only
15 be provided by one particular person. And that would
16 require a letter from the manufacturer saying we are
17 the only ones that provide this.

18 Q. What I hear you saying is that even if
19 there's not three bids that can be obtained, there is
20 a way that a product could be purchased by PSC? Is
21 that a nutshell accurate statement?

22 A. I'm going to say generally, yes. There
23 are always other laws that come into consideration
24 about who you're buying product from and things of
25 that nature.

1 Q. Right. And in terms of the sole source
2 you mentioned a letter from the manufacturer saying
3 we're the sole source. Typically how quick would
4 that process work in terms of going to the
5 manufacturer saying we need a letter, we'd like to
6 buy this product from you but we need a letter saying
7 that you're the only manufacturer of it? Like what's
8 the turnaround time for that whole process typically?

9 A. This is something that is very, very
10 infrequent. I mean very infrequent. But to answer
11 your question, I would say it would be a one- to
12 two-week process because of the approval process
13 through the State to ensure that it is a sole source.

14 Q. So we're not talking like a year or
15 anything like that in general to do that?

16 A. Generally speaking, no.

17 Q. And you also mentioned that your source
18 analysts could use Google to try to find a product.
19 Did I understand that correctly?

20 A. That is correct. Depending on the product
21 again.

22 Q. If they're not using Google but to circle
23 back to kind of the methodology so to speak of
24 procurement, the nuts and bolts of the actual
25 procurement, let's say that PSC doesn't have a

1 product in stock that's been requested from a
2 customer, source analyst needs to go out into the
3 marketplace to purchase it.

4 Literally how does that happen, how does
5 the source analyst find the product from one of these
6 on Exhibit 3, the boxes like the drug sources from
7 AmeriSourceBergen, Cardinal Health, others?

8 A. So I guess I want to be clear that
9 depending on the type of product determines the
10 particular path we would go.

11 Q. If we're talking -- I'm sorry, go ahead.

12 A. That's okay. I can buy a shampoo from
13 Amazon.

14 Q. Sure.

15 A. I am not going to find a pharmaceutical
16 product on Amazon.

17 Q. I mean you might, but.

18 A. Well.

19 Q. Whether you can purchase it is probably a
20 different issue.

21 A. Potentially.

22 Q. Who knows. But if we're talking about
23 pharmaceuticals, do -- I guess what I'm asking in not
24 so many words is do the source analysts have access
25 to realtime inventories for these drug distributors

1 where they can just sit down at their computer and
2 say well, let's see what Cardinal Health has, they
3 have so many units in stock they can go there? Do
4 they need to get on the phone and call these
5 different entities? Help me understand how that
6 process works.

7 A. To help clarify that, yes, we can go
8 online, look at their inventory, I hate to say
9 realtime because it's updated twice a day, but in the
10 loose terms of realtime, that is correct.

11 Q. When you say "they" you mean the drug
12 sources out in the marketplace.

13 A. Correct.

14 Q. And you can, your source analysts can do
15 that from their offices.

16 A. Correct.

17 Q. Can they pick up the phone and call
18 somebody if it's something that they are looking for?

19 A. That's always an option.

20 Q. I mean that wouldn't be unheard of to make
21 a phone call from a source analyst to, again to use
22 an example, Cardinal Health, we're looking for
23 such-and-such pharmaceutical product, do you have it
24 in stock or do you have it in inventory.

25 A. Correct.

1 Q. Not an unusual thing?

2 A. Not unusual. But for efficiency sake we
3 try to take advantage of the online system.

4 Q. Certainly, okay. And if the online
5 inventory doesn't yield results, then you can go to
6 Google potentially?

7 A. We would not do that for a prescription
8 type medication because it wouldn't be available for
9 us out there to buy.

10 Q. If it was a drug product that was being
11 offered by the manufacturer in, I hesitate to say
12 "bulk amount" because that phrase gets blurry here.
13 If for instance I as an individual Allen Bohnert sits
14 down at a computer and Google where to find a
15 particular drug and there's a source that pops up,
16 assuming that it's a manufacturer source and not like
17 a Dark Web kind of source.

18 A. Sure.

19 Q. I Allen can't typically go and buy from
20 that manufacturer, I don't have the account, I don't
21 have the licensure, et cetera, et cetera, et cetera.

22 A. Right.

23 Q. But would PSC then be able to purchase
24 from that entity?

25 A. Generally I'm going to say yes, but there

1 are some steps in that process that would have to
2 happen, such as what you started to say or you said
3 about yourself was we may not, chances are we do not
4 have an account with that manufacturer.

5 We would have to apply to be a customer.
6 We would have to have them set up in the State of
7 Ohio system for them to be a vendor. So there's a
8 lot of steps of creating that relationship for the
9 first time.

10 Q. Okay.

11 A. So but generally speaking, yes, we should
12 be able to establish that relationship.

13 Q. And setting that kind of relationship up,
14 how would you characterize it? Very difficult, not
15 difficult at all, fairly easy?

16 A. I certainly wouldn't clarify, if we were
17 talking manufacturers I would certainly say it would
18 not be very, very easy. Typically manufacturers do
19 not want to sell directly to us. They'll want to,
20 not always, but will want to supply it through a
21 channel. They're good at manufacturing, not
22 distribution.

23 Q. So if it's a drug distributor, sort of
24 somebody, an entity akin to AmeriSourceBergen or
25 Cardinal Health, is establishing that relationship a

1 more streamline process?

2 A. It would be.

3 Q. Fairly easy in that situation?

4 A. I'm not going to say it's extremely
5 difficult but I'm not going to say it's an hour
6 thing. It would be a bit time consuming.

7 Q. When you say time, like are we talking
8 about that's something that generally could be done
9 in a week, a month, a year? Help me understand just
10 as a general kind of thing.

11 A. Depending on the vendor anywhere from a
12 week to a month.

13 Q. So circling back to the issue of drugs as
14 they're requested by DRC when we're talking about
15 drugs that will be used for an execution, taking as a
16 given that your source analysts, if I understand you
17 correctly the source analysts don't know, are not
18 informed that the particular drug request that they
19 are being asked to fill is going to be used for an
20 execution.

21 A. That is correct.

22 MS. CARWILE: And I want to interrupt and
23 don't use names when talking about the execution, use
24 identifying numbers.

25 MR. BOHNERT: I guess I would also I think

1 DRC Employee No. 1's role in all of this stuff is
2 fairly well publicized at this point so I guess I
3 would want to make sure that we're not carving out
4 something, unduly complicating things if it's talking
5 about DRC Employee No. 1.

6 MR. GRAY: I don't necessarily agree with
7 your characterization as been "well publicized."

8 MR. BOHNERT: Published in a Federal Court
9 docket.

10 MR. GRAY: Certainly some of his testimony
11 is on the Court docket. I would agree with that.

12 MR. BOHNERT: And in that testimony he has
13 described his role in this drug procurement process
14 for execution drugs.

15 MR. GRAY: Partially he has, I would agree
16 with you.

17 MR. BOHNERT: Bottom line is it is not a
18 confidential thing that DRC Employee No. 1 is the
19 individual on whose behalf or on DRC's behalf who
20 initiates the request for drugs to be used for
21 executions. That is clearly established publicly
22 available on the Federal Court docket.

23 MR. GRAY: Okay.

24 MR. BOHNERT: So I guess if we're talking
25 about, you know, an individual at the bottom of this

1 chain being the DRC customer being DRC Employee
2 No. 1, I don't know that we need to unduly complicate
3 matters that throwing in an anonymizing name here.
4 Because that is reploting old ground and trying to
5 put the toothpaste back in the tube.

6 So I just want to make sure that we're
7 clear it's not my expectation or my understanding
8 that DRC Person No. 1 is in fact DRC Employee No. 1,
9 that is a different person. Can we confirm that?

10 MR. GRAY: I am willing to engage in this
11 conversation with you, I just want to make sure that
12 it is not -- can we mark the transcript here so that
13 we can review some of the conversation that we have
14 with Judge Merz to determine whether or not it would
15 become a public document?

16 MR. BOHNERT: I mean, yeah, we can mark
17 the transcript I guess.

18 MR. GRAY: Let me suggest this, Allen,
19 let's take five minutes, let me speak with my
20 counsel, let counsel speak with counsel for
21 Mr. Knight to make that we're all in agreement, then
22 we can get back to you and discuss how we're going to
23 address this.

24 MR. BOHNERT: Sure, we'll take a break for
25 five minutes and we'll reconvene.

1 (Recess taken.)

2 Q. (By Mr. Bohnert) Just to clarify, during
3 the break here did you confer with anybody about your
4 testimony here today?

5 A. Absolutely not.

6 Q. So when we took a break we were starting
7 to get into the issue of the specifics of the drug
8 procurement process for drugs to be used for
9 executions, right?

10 A. Yes.

11 Q. And for purposes of today we're going to
12 refer to a particular individual who would be at the
13 bottom of the drug chain as DRC Employee No. 1.

14 A. Okay.

15 Q. Do you have an understanding of who this
16 individual is?

17 A. Yes.

18 Q. I just want to make sure that we have it
19 on record that we both are under the understanding,
20 we have a common understanding who we're talking
21 about.

22 So on the diagram here that's Deposition
23 Exhibit No. 3, the typical chain is highlighted there
24 with blue arrows, right?

25 A. Correct.

1 Q. So if you could use, let's use maroon, I
2 don't know why, just because. Help me, like walk me
3 through the process of how drugs are procured by DRC
4 to use for executions.

5 A. So again when -- I am not told -- not I.
6 We are not as an operation told specifically I am
7 buying this medication for an execution.

8 Q. Okay, so let's back up then. A request
9 for, have you been informed about what the typical
10 procurement process is for drugs to be used for an
11 execution?

12 A. Can you ask me that again? Sorry.

13 Q. Have you been informed, advised, told,
14 explained to you what the process is for DRC to
15 procure drugs to be used in an execution?

16 A. Yes, I understand that process.

17 Q. So taken it as a given that people, the
18 source analysts who would be responsible for pulling
19 the drug off the shelves, I mean not literally but
20 would be responsible for filling an order at PSC
21 whether from inventory or going outside, taking it as
22 a given they don't know that these drugs are to be
23 used for an execution, that's an assumption that
24 pervades all of what we're going to talk about.

25 A. Yes.

1 Q. Does the same also apply to the
2 individuals at CPIP who might be involved in this as
3 it relates to execution drugs?

4 A. So for that process as you term them CPIP
5 are not involved in that process.

6 Q. CPIP is not involved in the supply chain
7 for execution drugs? Is that what you're saying?

8 A. That is correct.

9 Q. It's been my understanding that they are,
10 so help me understand when that changed.

11 A. I'm not going to know exact date but
12 approximately 2014.

13 MS. STRAIT: I'm sorry, was that 2015?

14 MR. BOHNERT: '14 he said.

15 Q. So help me understand then the supply
16 chain as it applies to drugs to be used for an
17 execution with again the understanding that you're
18 not saying that the people at PSC know that they're
19 to be used for executions.

20 A. So, sorry, what are you asking for again?
21 Do you want me to draw?

22 Q. Yeah, use the maroon pen there if you
23 could to draw the upward direction of the request for
24 the particular medications and then however high up
25 those requests go, and then draw the downward arrow

1 to show the flow of the actual drug product.

2 A. (Witness complies.)

3 And I'm going to include up into.

4 Q. So for the record if you could help me
5 understand the customer, if you want to put in
6 parentheses there "DRC" with the maroon so we know in
7 our execution drug situation we're talking about
8 DRC's request.

9 A. (Witness complies.)

10 Q. Explain for us if you could for the record
11 in words what you just drew.

12 A. I drew a line from the customer directly
13 to the Pharmacy Service Center and then a line from
14 the Pharmacy Service Center to a distributor, back
15 down from the distributor to PSC and then to the
16 customer.

17 Q. From PSC to the customer being DRC.

18 A. Correct.

19 Q. And the person who is the one responsible
20 for making that initial request by the customer being
21 DRC is DRC Employee No. 1; is that correct?

22 A. Correct.

23 Q. Are there any others? Any other
24 individuals that occupy that role to your knowledge?

25 A. No.

1 THE WITNESS: Can I speak to you or is
2 that not something I can do?

3 MS. CARWILE: No, you can.

4 (Off the record.)

5 Q. Back on the record.

6 So when we broke we were talking about the
7 drug procurement chain or supply chain for drugs to
8 be used for executions by DRC. Now we said that DRC
9 Employee No. 1 is the one on behalf of DRC who makes
10 the request for drugs to be used for executions,
11 correct

12 A. Yes.

13 Q. And I know he makes that request under
14 your diagram on Exhibit 3 directly to PSC. Who
15 individually, without naming a name unless it's you,
16 right, like who does he make that request to?

17 MS. CARWILE: And I just instruct using
18 numbers at this time for all of this.

19 Q. Yes.

20 A. Okay. So that would be OPS No. 1, sorry,
21 yes.

22 Q. And I want to make sure I'm being as
23 thorough as I can without breaching confidentiality
24 issues. I guess my next question would be is OPS
25 Person No. 1 a source analyst?

1 MS. CARWILE: I would like to object.

2 There's very few people in OPS and if we start
3 getting into their titles it will be easy to identify
4 those individuals.

5 Q. How many, when you say there's very few
6 people, like can you give me a ballpark range?

7 A. At OPS?

8 Q. Yeah, at PSC.

9 A. Probably, let me think, 30.

10 Q. So that request comes in from DRC Employee
11 No. 1 to PSC. At some point then what happens? Tell
12 me what happens once that request comes in.

13 A. The order would be entered into our
14 system, the process out into the warehouse, pick,
15 pack, like a normal order.

16 Q. And then what happens?

17 A. The product is picked up.

18 Q. When you say "picked up," what do you mean
19 by that?

20 A. Customer pickup, somebody comes and picks
21 the product up from our warehouse.

22 Q. Do you know who that person is? Who comes
23 and picks up the product?

24 A. I do.

25 Q. And is that DRC Employee No. 1?

1 A. Yes.

2 Q. And then what to your knowledge happens
3 after DRC Employee No. 1 picks up the drug products
4 from the warehouse? What happens to the drugs next?

5 MS. CARWILE: I'm going to object, outside
6 the scope of the 30(B)(6).

7 Q. Where do the drugs go? I guess presumably
8 he doesn't just keep them.

9 MS. CARWILE: I would, continuing
10 objection.

11 If you know you can answer.

12 But it's outside the 30(B)(6) because DRC
13 Employee No. 1 is not an OPS employee so he may or
14 may not know.

15 Q. I guess the 30(B)(6) included like the
16 entire supply chain and I'm, this seems to me like
17 the last link in the supply chain before the drugs
18 come to be in a safe at SOCF. So I want to make sure
19 I can confirm that that's actually what happens.

20 A. I would say yes, DRC Employee No. 1 picks
21 them up and takes them to SOCF.

22 Q. So you mentioned that CPIP was cut out of
23 the supply chain in approximately, according to your
24 testimony, 2014. Did I remember that correctly?

25 A. Correct.

1 Q. Why?

2 A. Pharmacy Services or OPS in general reacts
3 to our customers' requests and needs. Specific why
4 that change was made we were not part of that here's
5 why we're doing this change. It was just this is the
6 new process we would like to follow.

7 Q. Okay. So the new supply chain for drugs
8 for executions was implemented by DRC or by PSC?

9 A. The direction was given and probably part
10 of their process on their side, which I can't
11 testify, I don't know what specifically they did, but
12 the direction was given from DRC to us this is the
13 way we want to process. So we accommodated it, is
14 the way to say it.

15 Q. Does DRC as a customer purchase any other
16 pharmaceuticals other than drugs to be used for
17 executions directly from PSC?

18 A. Yes.

19 Q. And what circumstances were those just in
20 general?

21 A. There is a, at Franklin Medical Center
22 Zone A there is a pharmacy specifically in there for
23 that particular location and we sell the product
24 directly to Department of Corrections.

25 Q. For drugs other than stuff destined for

1 Franklin Medical Center does DRC purchase drugs
2 directly from PSC in any other context other than
3 drugs to be used for executions?

4 A. If we're specifically talking about
5 pharmaceuticals, no.

6 Q. So you mentioned earlier that when DRC
7 Employee No. 1 makes the request to PSC for certain
8 drugs, that goes directly to PSC and then the order I
9 believe you said was picked and packed and then
10 shipped.

11 A. Correct. "Shipped" being a terminology
12 we, in our system.

13 Q. Out the door from your hands, sent off to
14 somebody else's hands, DRC Employee No. 1.

15 A. Correct.

16 Q. While the order is at PSC if the request
17 is for a drug that PSC does not have in stock,
18 explain for me if you could what happens at that
19 point.

20 A. In general or regards to specifics?

21 Q. Specifically for drugs that DRC Employee
22 No. 1 has requested from PSC.

23 A. In most -- to my knowledge of this time we
24 have never been out of a medication that he has
25 requested.

1 Q. And how long have you been the supervisor
2 at, for procurement at PSC?

3 A. Approximately seven years now.

4 Q. So that goes back to 2012 approximately?

5 A. Yes.

6 Q. Are you aware of instances in the past
7 where DRC has requested supplies of certain
8 pharmaceuticals that PSC did not have in stock?

9 A. I guess can you clarify for me
10 "requested"?

11 Q. I mean --

12 A. Order placement? Or inquiry?

13 Q. A good point. And the inquiry is a
14 different issue and we'll get to that but right now
15 we're just talking about like there is a request to
16 purchase, not just simply an inquiry whether
17 something might be purchased, a request to purchase
18 made from DRC that ends up at PSC and PSC doesn't
19 have the drug. Are you aware of instances in the
20 past where that has happened?

21 A. Not to my recollection.

22 Q. So nobody has made you aware of instances
23 in the past where execution drugs were no longer
24 available and PSC was being asked to provide them?

25 A. Can I have just a minute to think through

1 that process?

2 Q. Sure.

3 A. Trying to give you a hundred percent
4 accurate information, not just on I think I remember
5 specifically. So to my knowledge that has not
6 happened.

7 Q. So you have no knowledge of requests to
8 purchase, for instance, sodium thiopental to be used
9 for executions?

10 A. I believe but I don't think it's testified
11 that was something that was used a long time ago.
12 But not to recent knowledge.

13 Q. And do you have any knowledge of what PSC
14 would have done to try to find that drug if it didn't
15 have it in stock?

16 A. Yes.

17 Q. And what would that be?

18 A. We would have gone to our typical
19 pharmaceutical sources to see if that product was
20 available and if it was available I'm sure we would
21 have purchased it. If it was not available we would
22 have returned the statement of product's not
23 available.

24 Q. And you had mentioned earlier about that
25 there would be contracts with certain suppliers for

1 certain products.

2 A. Correct.

3 Q. And is that, are those contracts specific
4 to particular medications or how does that work?

5 A. It's considered a primary vendor. So all
6 medications would be purchased through this as our
7 primary contract based on a bidding process to come
8 up with that particular primary vendor.

9 Q. And is there a single holder of that
10 contract at any given time?

11 A. There is. So there would be a primary
12 vendor for the pharmaceuticals, there might be a
13 primary vendor for the medical supplies. From
14 pharmaceuticals, yes, there's a single vendor.

15 Q. And does that change from time to time?

16 A. At some point, yes, there will be an end
17 of the contract and it will be rebid.

18 Q. How frequently do those contracts come up
19 for rebid?

20 A. This one was like a three-year contract
21 with four or five mutually agreeable renewals.

22 Q. And who is that contract with currently?

23 A. AmeriSourceBergen.

24 Q. And how long has AmeriSourceBergen had
25 that exclusive contract with PSC?

1 A. Approximately a year.

2 Q. Who was it before them?

3 A. So to give the process, it was HG Smith
4 who was awarded the original contract. And
5 AmeriSourceBergen acquired HG Smith.

6 Q. So wasn't a new contract, then was
7 AmeriSourceBergen took over the entity that had the
8 contract.

9 A. Correct.

10 Q. And who before HG Smith had that supplier
11 contract with PSC?

12 A. So prior to the HG Smith was a completely
13 different contract method, this was our first with HG
14 Smith as a primary vendor. Prior to that the
15 medications were bid out by maybe a group of
16 medications together or a specific one and different
17 people could be awarded different versus this is a
18 complete primary for all.

19 Q. And so you mentioned it was about a year
20 ago that AmeriSourceBergen became the holder of that
21 contract. Just for clarity did the contract -- how
22 long before AmeriSourceBergen took over that company
23 did that company actually have the sole single source
24 contract?

25 A. Five to six years.

1 Q. So if my math is correct we're talking
2 2013-2014 when that contract went into place? Is
3 that right?

4 A. That would be correct.

5 Q. And so there's, is there a distinction
6 between a request to get drugs that will be used, a
7 request from DRC Employee No. 1 for drugs to be used
8 by DRC and any other pharmaceuticals when you need to
9 go to AmeriSourceBergen?

10 That's a really horrible question.

11 A. I was just going to ask for clarification.

12 Q. Let me try again.

13 When DRC Employee No. 1 makes a request
14 for drugs to PSC, directly to PSC, and PSC doesn't
15 have a drug in stock, is there any kind of a
16 distinction made to AmeriSourceBergen when presumably
17 a source analyst goes to AmeriSourceBergen and says
18 we would like to obtain X quantity of Y product?

19 A. So because of contractible reasons any
20 time we are asked for a pharmaceutical, our first
21 step is to AmeriSourceBergen.

22 Q. Okay. And does the, I don't want to
23 assume the source analyst but the person from PSC who
24 is contacting AmeriSourceBergen to obtain these drugs
25 upon request, does that person identify to

1 AmeriSourceBergen that the drugs are intended to be
2 sent to DRC?

3 A. I want to clarify contact because our
4 normal process is we are going to log online to their
5 system and look up to see if that product is
6 available.

7 Q. So that information that the end user of
8 this is going to be Ohio DRC is not conveyed to
9 AmeriSourceBergen, right?

10 A. Correct.

11 Q. Nor is the actual use for those drugs
12 conveyed to AmeriSourceBergen, correct?

13 A. Correct, because we don't know
14 specifically that that's what it's being used for.

15 Q. So you clarified a moment ago about a
16 distinction between a request to purchase from DRC
17 Employee No. 1 versus an inquiry about availability.
18 Do you remember that?

19 A. Yes.

20 Q. Help me understand what the process would
21 be using Exhibit 3 if DRC Employee No. 1 is making an
22 inquiry about availability of a certain drug directly
23 to PSC.

24 A. I guess it wouldn't be any different than
25 the ordering process other than the fact it wouldn't

1 be product exchange back and forth. So request would
2 come to PSC, PSC would look on the website's
3 availability and report the information back, versus
4 shipping product.

5 Q. Has that scenario actually happened at any
6 point in the last, well, since you've been the
7 supervisor?

8 A. The inquiry?

9 Q. Yes, the inquiry.

10 A. Yes.

11 Q. And tell me about those inquiries.

12 A. PSC has received a request to see if a
13 particular medication is available in the market and
14 potential cost.

15 Q. And how does DRC Employee No. 1 make those
16 requests to PSC in terms of how is that communication
17 made?

18 A. Via phone call to PSC.

19 Q. Any other means of communication by which
20 he would make a request? Sorry, an inquiry, to be
21 clear.

22 A. Thank you. No.

23 Q. Would he ever email an inquiry?

24 A. I can't speak for would he ever but has
25 not.

1 Q. Indeed. My clarification was has he ever
2 emailed an inquiry.

3 A. No.

4 Q. And has he ever emailed a request for
5 drugs directly to PSC?

6 A. No.

7 Q. Any other method of communication other
8 than a phone call that DRC Employee No. 1 has used to
9 make a request for drugs to be used by DRC?

10 A. No.

11 Q. Same as to an inquiry.

12 A. No.

13 Q. Tell me the circumstances in which DRC
14 Employee No. 1 has made an inquiry that you were
15 aware of regarding drugs to PSC.

16 A. Tell you how or? Sorry.

17 Q. Tell me when has it happened and tell me
18 the circumstances. What was he asking for, when was
19 it, what was the result? Help me understand that.

20 A. So inquiries come into our operation all
21 the time, is something like that available. And so
22 PSC receives a call, says can you check to see if
23 this particular product is available in this strength
24 or whatever and what's the price and what's the
25 availability. And that's particularly what we would

1 get back to them.

2 Q. Okay.

3 A. So there's no process.

4 Q. No, but I'm saying like specific instances
5 in which DRC Employee No. 1 has made that inquiry,
6 not the request but an inquiry about availability of
7 a certain drug product, when was it, what drugs were
8 requested, what was the search process, what was the
9 result of the search process, what was conveyed to
10 him, that kind of stuff. Do you understand what I'm
11 asking about?

12 A. I do.

13 Q. Okay. So I guess the first question --
14 let me help narrow it down. How many times would you
15 estimate that DRC Employee No. 1 has made an inquiry
16 about drug availability to PSC?

17 MS. CARWILE: Can we have a time frame,
18 please?

19 Q. Since you've been the supervisor of PSC.
20 Or OPS, sorry.

21 A. Five to ten times.

22 Q. When was the first one to your knowledge?
23 And again to be clear we're talking about inquiries,
24 not requests to purchase drugs.

25 A. Our process doesn't really have us record

1 down inquiries because we get inquiries all the time
2 about things that come to fruition or don't come to
3 fruition. So I don't know if I would say -- and
4 again this is just an estimation on my part. Would
5 have been right at the beginning of my, within the
6 first six months of me becoming the supervisor there.

7 Q. Which would have been approximately 2013?

8 A. '13 I believe, yeah, '13-'14.

9 Q. You're not saying that you get lots and
10 lots and lots of requests from DRC Employee No. 1 for
11 inquiries, right? You're just saying that in general
12 PSC gets lots of inquiries.

13 A. Correct.

14 Q. So you said there's approximately five to
15 ten times to your knowledge that DRC Employee No. 1
16 has made an inquiry directly to PSC.

17 A. That is correct.

18 Q. And you said the first was approximately
19 2014 or so?

20 A. Yes.

21 Q. Do you remember what it was that he was
22 asking about?

23 A. I do not.

24 Q. When was the next time to your
25 recollection?

1 A. I guess what I was trying to imply maybe
2 is that there's no recollection or any record of any
3 time he's called and says what about this medication.

4 Q. Right.

5 A. The answer is just given and I don't
6 specifically try to or we don't specifically note
7 that that request was made or anything like that.
8 You understand? I'm trying to say I just don't
9 specifically know dates or times or anything like
10 that.

11 Q. Let's go back within the last 12 months.

12 A. Okay.

13 Q. Do you have a pretty good recollection of
14 any contacts from DRC Employee No. 1 regarding an
15 inquiry about drug availability to PSC?

16 A. Yes.

17 Q. Tell me about those contacts.

18 A. The last contact I had would have been
19 again approximately six months ago. Last contact PSC
20 had was approximately six months ago and it would
21 have been a request around the medication
22 secobarbital.

23 Q. And what happened, tell me what happened
24 after the request, after the inquiry from DRC
25 Employee No. 1 about secobarbital came in to PSC.

1 A. So in regards to the most recent one the
2 product was not available.

3 Q. You made a distinction between "the most
4 recent" and I'm guessing that means that there's
5 another one where the situation might have been
6 different. Tell me about that.

7 A. Previous requests for the same medication
8 it was what we would term it's still available on the
9 website but the product was not available. It was
10 saying it would be available on this particular date
11 or be available on this particular date.

12 Q. And what were those particular dates to
13 your recollection?

14 A. It was, it continued to keep moving for
15 like every three months. So I think the last date
16 that it, where there was a date that it said would be
17 available was around in April.

18 Q. And when was that particular inquiry that
19 we're talking about?

20 A. Could have been around April time frame.

21 MS. STRAIT: Would have been what?

22 THE WITNESS: April.

23 Q. Let me make sure I understand. How many
24 times to your knowledge has DRC Employee No. 1 made
25 an inquiry to PSC regarding the availability of

1 secobarbital?

2 A. Three to four times.

3 Q. And the last one you said was
4 approximately six months ago; is that right?

5 A. The last one would have been in the April
6 time frame. I apologize, so not quite six months.

7 Q. April of 2019?

8 A. Correct.

9 Q. And at the time of that inquiry what was
10 the ultimate result of the search by PSC?

11 A. For the last search was it was not
12 available at all on online available to us to even to
13 pull up and find.

14 Q. And was any effort made to, for instance,
15 contact the manufacturer?

16 A. No.

17 Q. Was any Google search made separate and
18 apart going beyond AmeriSourceBergen?

19 A. We would have checked any other suppliers
20 that we have access to and/or contracts to.

21 Q. So that one was in April. When was the
22 time before that that DRC Employee No. 1 had made an
23 inquiry with regards to secobarbital?

24 A. I'm guessing three to four months before
25 that.

1 Q. So that's?

2 A. January, December time frame.

3 Q. When was the time before that?

4 A. Approximately three to four months before
5 that.

6 Q. So that puts us at October?

7 A. October.

8 Q. Of 2018?

9 A. Correct.

10 Q. So that's three. Was there another
11 inquiry about secobarbital from DRC Employee No. 1 to
12 PSC that you're aware of?

13 A. I would have said there would have been
14 one more three months prior to that.

15 Q. So three months prior to the October 2018.

16 A. Correct. To clarify this is to my best
17 recollection.

18 Q. Understood.

19 A. We don't have any record of inquiries, we
20 just don't keep track of the inquiries.

21 Q. So October, September, August -- July of
22 2018?

23 A. Correct.

24 Q. Okay. And in each of those instances did
25 PSC check initially with AmeriSourceBergen?

1 A. Correct.

2 Q. And what happened upon that inquiry? What
3 was the information that was obtained?

4 A. So from a search standpoint the product is
5 there for us to find. But it would say product is
6 not available until three months later.

7 Q. And was any search for availability for
8 secobarbital done beyond AmeriSourceBergen --

9 A. Yes.

10 Q. -- for each of those three to four
11 instances?

12 A. Yes.

13 Q. And what other potential entities were
14 consulted to your knowledge?

15 A. Vendors?

16 Q. Correct.

17 A. McKesson, and Capital Wholesale.

18 Q. Any others?

19 A. No.

20 Q. At any point in those, any of those four
21 inquiries was the manufacturer of secobarbital
22 consulted?

23 A. No.

24 Q. So that's inquiries regarding
25 secobarbital. Any other inquiries regarding

1 secobarbital that you're aware of?

2 A. No.

3 Q. What about inquiries within the last 12
4 months for a drug called amitriptyline?

5 A. You're speaking from DRC Employee No. 1?

6 Q. Yes, sorry. Thank you for the
7 clarification. Inquiries by DRC Employee No. 1
8 directly to PSC seeking information on the
9 availability inquiry, not request but inquiry about
10 the availability of amitriptyline.

11 A. No.

12 Q. So I limited that to 12 months. To your
13 knowledge have there been any inquiries about the
14 availability of amitriptyline by DRC Employee No. 1
15 to PSC?

16 MS. CARWILE: And I'll ask for a date.
17 Starting date.

18 Q. I mean just ever. Because DRC Employee
19 No. 1 has only been in his job for since
20 approximately 2013-'14 and it specifically was a
21 request from DRC Employee No. 1 to PSC that you're
22 aware of.

23 A. Not to my knowledge.

24 Q. Has there been any request from DRC
25 Employee No. 1 to PSC, a request as opposed to an

1 inquiry to purchase secobarbital to your knowledge?

2 A. No.

3 Q. Has there been any request from DRC
4 Employee No. 1 to PSC to purchase amitriptyline to
5 your knowledge?

6 A. No.

7 Q. Has DRC Employee No. 1 in the last 24
8 months made any requests to purchase drugs to PSC to
9 your knowledge?

10 A. Yes.

11 Q. Tell me about those instances if you
12 would, please.

13 MS. CARWILE: Do you know the question or
14 do you want to take a break?

15 A. No, that's okay.

16 Could you ask your question again?

17 Q. Anytime, the initial question was has DRC
18 Employee No. 1 anytime in the last 24 months made a
19 request to purchase drugs directly to PSC, and your
20 answer to that was yes.

21 A. Correct.

22 Q. And my question then is please describe
23 those, each of those instances for me.

24 A. Okay. The call would come from DRC
25 Employee No. 1 to PSC, the order would be entered

1 into the system, and it would go through our software
2 system to the warehouse to be picked, packed, and
3 picked up.

4 Q. So specifically how many such requests in
5 the last 24 months has DRC Employee No. 1 made to PSC
6 to your knowledge?

7 A. I believe one.

8 Q. So one request in the last 24 months. And
9 when was that?

10 A. January 8, 9.

11 Q. Of?

12 A. 2019.

13 Q. And what did DRC Employee No. 1 request?
14 What drug? Or drugs, I guess I shouldn't limit it.

15 A. The potassium chloride, rocuronium
16 bromide, and midazolam.

17 Q. And what was the result of that request?

18 A. Would have fulfilled the complete request.

19 Q. Would?

20 A. Sorry, we did.

21 Q. To circle back for a moment, DRC Employee
22 No. 1 may not have made any inquiries regarding the
23 availability of amitriptyline but as part of your
24 deposition here today I guess the question would be
25 what is your, have you made any inquiries about the

1 availability of specifically about amitriptyline but
2 we can drill down into the different formats of it.

3 A. So to answer that, amitriptyline is used
4 by many of our clients in different strengths,
5 different pack size, all of that. So it's almost a
6 day-to-day product that we would have.

7 Q. So would you describe it as a problem in
8 any way to get however much amitriptyline you could
9 possibly obtain? That's a broad.

10 Would it be a difficult endeavor for PSC
11 to obtain enough amitriptyline that would in
12 aggregate total up to say 10 grams?

13 A. No.

14 Q. 20 grams?

15 A. No.

16 Q. 30 grams?

17 A. No.

18 Q. A hundred grams?

19 A. I'd have to do the calculation backwards
20 on that but generally speaking, no.

21 Q. And if there was a request or an inquiry
22 regarding supplies of amitriptyline powder, not in
23 the tablet form but just still in the powder form,
24 what is your understanding of whether PSC would be
25 able to easily acquire that?

1 A. I wouldn't say the term "easily" but, yes,
2 it could be obtained.

3 Q. And how do you know that?

4 A. PSC has researched that on
5 AmeriSourceBergen or McKesson website and it is
6 available for as drop ship.

7 Q. You said a "drum ship"?

8 A. Drop ship.

9 Q. And when you say that you're talking
10 specifically about the amitriptyline powder, correct?

11 A. Correct.

12 Q. And what is the -- couple things I guess.
13 With the drop ship, what is the cost to your
14 understanding to obtain amitriptyline powder say at
15 least 10 grams of it?

16 A. Can I ask can I use my sheet?

17 MS. CARWILE: Yes.

18 A. 5 grams would have been \$10.25. With a
19 little caveat that's the price that's presented to us
20 on the website. Drop ship might add some additional
21 cost.

22 Q. 5 grams was what? I'm sorry.

23 A. \$10.25.

24 Q. And that was from which supplier?

25 A. AmeriSourceBergen.

1 Q. And AmeriSourceBergen is the one that
2 consistently supplies drug products to PSC.

3 A. Correct.

4 Q. And is there any indication that it would
5 be a problem for AmeriSourceBergen to drop ship
6 5 grams or more of amitriptyline powder to PSC?

7 A. No.

8 Q. Are there other quantities that
9 AmeriSourceBergen offers in the amitriptyline powder
10 for sale?

11 A. 25 grams, 100 gram, 500 gram.

12 Q. 25 grams, 100 gram, 500 gram, you said?

13 A. Correct.

14 Q. And what are the prices on those to your
15 knowledge from AmeriSourceBergen?

16 A. 25 grams \$35.86; 100 grams, \$80.94; and
17 500 grams, \$327.85.

18 Q. Very specific, not round number.

19 A. No.

20 Q. And of course I'm assuming that as you
21 mentioned does not include shipping and handling and
22 taxes, anything like that, correct?

23 A. It actually does.

24 Q. Okay. So that \$327.85 for 500 grams of
25 amitriptyline powder, for instance, is not going to

1 change pricewise significantly from that 327.85?

2 A. I wouldn't say significantly.

3 Q. And do you have any idea how long it would
4 take from submission of an order for any of these
5 quantities of amitriptyline powder in drum form until
6 that drug arrived in PSC's possession?

7 A. A typical drop ship order, three to five
8 days.

9 Q. Did you do your own assessment of the
10 availability of secobarbital supplies in preparation
11 for today's deposition?

12 A. Yes.

13 Q. And when did you do that and what did you
14 do and what was the result?

15 A. The process of looking online at
16 AmeriSourceBergen, any of the contracted vendors that
17 we have, to see the availability and price. Same
18 process.

19 Q. Okay. What was the result of that?

20 A. The exact same results, this last time
21 would have been not even on the system as ability to
22 see it.

23 Q. Did you personally check with the
24 manufacturer of secobarbital about availability?

25 A. I did not.

1 Q. Did not?

2 A. Did not, correct.

3 Q. So I guess to circle back to something we
4 were talking about earlier, you said DRC Employee
5 No. 1 has made one request to purchase drugs within
6 the last 24 months. Has he made any other requests
7 to purchase drugs within that 24 months period other
8 than the one on approximately January 8 or 9, 2019?

9 A. Not to my recollection in the last 24
10 months.

11 Q. You hesitated there for a second. Help me
12 understand why.

13 A. Just I know documents have been provided
14 for everything that has transpired during that time
15 and I don't remember every single date on every
16 single document. That's all.

17 Q. Okay. To your knowledge has there been
18 any kind of instruction given to any of the source
19 analysts or whoever else would go out into the
20 marketplace looking for drugs that have been
21 requested or inquired about by DRC Employee No. 1 to
22 not disclose the end user of those drugs?

23 A. No.

24 Q. Same question as to not disclosing the
25 purpose for those drugs.

1 A. No.

2 Q. But AmeriSourceBergen, the other contract
3 vendors are not told about any of that stuff,
4 correct?

5 A. Correct.

6 Q. When you mentioned there was a catchy
7 picked, packed, shipped. Where is that done from?
8 The warehouse?

9 A. Physically in our warehouse.

10 Q. I mean where is the warehouse?

11 A. Sorry. 2150 West Broad Street.

12 Q. So here in Columbus.

13 A. Yes.

14 Q. And how long, well, DRC Employee No. 1
15 personally picks up the supplies of drugs to use for
16 execution; is that correct?

17 A. Correct.

18 Q. Have there ever been any other, would
19 execution drugs ever have been sent by private
20 courier, like FedEx or a delivery service like that?

21 A. No.

22 Q. Give me one second, I just want to make
23 sure I've covered my line of inquiry I need.

24 And just to be clear, because I don't
25 remember whether I was specific on requests to

1 purchase versus inquiry on availability, has anybody
2 other than DRC Employee No. 1 made any inquiries to
3 PSC about the availability of drugs, anybody from DRC
4 or on behalf of DRC made inquiries in the last 24
5 months?

6 A. Can you be more specific on that?

7 Q. So my understanding is that typical
8 process is that DRC Employee No. 1 is the one who
9 picks up the phone, no email, no fax, just the phone,
10 picks up the phone and calls somebody at PSC to
11 inquire about the availability of a certain drug or
12 drugs; is that right?

13 A. Correct.

14 Q. So anytime in last 24 months has anyone
15 from DRC or on behalf of DRC other than DRC Employee
16 No. 1 made that call directly to PSC asking about,
17 inquiring about the availability of certain drugs?

18 A. Absolutely.

19 Q. And who would those inquiries have been
20 from?

21 A. Back to our description here about the
22 Franklin Medical Center.

23 Q. Sorry, let me clarify. Separate and apart
24 from Franklin Medical Center operations.

25 A. Okay.

1 Q. Has anybody else, same question, excluding
2 Franklin Medical Center?

3 A. No.

4 Q. And has anyone other than DRC Employee
5 No. 1, same thing as to a request to purchase drugs
6 directly to PSC?

7 A. No.

8 Q. So in your preparation for today did you
9 look at the availability of midazolam?

10 A. Yes.

11 Q. And what was the result of that inquiry?

12 A. One supplier available to purchase, one
13 supplier was not.

14 Q. Who was the supplier that was available
15 from?

16 A. McKesson Pharmaceuticals.

17 Q. One supplier was not listed?

18 A. AmeriSourceBergen.

19 Q. Do you know why it was not available from
20 AmeriSourceBergen?

21 A. No.

22 Q. And when you say was not available, do you
23 mean that they just had none to sell or that you
24 would not be able to purchase from them?

25 A. We would not be able -- it was not on the

1 website to purchase from.

2 Q. So anybody looking at that would have seen
3 the same thing, not something specific to PSC.

4 A. I can't say specifically anybody because
5 anybody at PSC that would have looked at it would
6 have had the same thing. I can't speak for another
7 customer necessarily.

8 Q. But you said supplies were available from
9 McKesson to purchase?

10 A. Yes.

11 Q. What about same questions as to Diazepam?

12 A. I might be able to speak generally but
13 without receiving specific strengths and sizes, that
14 can vary all over the place because you might be able
15 to get one particular strength that is not a problem
16 and another strength may be absolutely a problem.

17 Q. So if we were wanting to, if we could
18 obtain 1 to 3 grams of Diazepam at whatever would be
19 the typical strength, and I apologize, I'm not sure
20 the ordinary strength of Diazepam, was that
21 particular drug property available when you did your
22 search?

23 A. Yes.

24 Q. Just to be clear, how long ago did you do
25 these searches?

1 A. Seven days ago.

2 Q. What about digoxin, at least a hundred
3 milligrams of digoxin, was that available in your
4 search?

5 A. I don't believe we did a search without
6 having a particular strength because it makes a
7 significant difference whether things are available
8 or not.

9 Q. Is it fair to say digoxin is a fairly
10 common drug that is generally available in whatever
11 form that one wants?

12 A. I believe so.

13 Q. So typically not going to be a problem for
14 PSC to get supplies of digoxin.

15 A. Typically not.

16 Q. What about for propranolol, at least 2
17 grams of propranolol, would that be available?

18 A. That should have been available also.

19 Q. Should have been or was?

20 A. I can't speak specific on my search on
21 that particular item.

22 Q. Is that because you weren't able to tell
23 or because you just don't remember?

24 A. I just don't remember.

25 Q. Same questions as to morphine sulfate.

1 Would you have been able to obtain available at least
2 15 grams of morphine sulfate in your search?

3 A. I have to say I don't remember
4 specifically on that one.

5 Q. And I guess the last question on this
6 would be regarding nitrogen in liquid or gas.

7 A. So that is one particularly PSC would not
8 provide because the nature of that product has
9 special requirements around storage or delivery of
10 that class.

11 Q. Who is, in the same way that sort of PSC
12 would be the one to get pharmaceuticals, who might be
13 the sort of Ohio agency that would be able in your
14 knowledge to purchase nitrogen?

15 A. Unfortunately, I have no idea.

16 Q. Give me one second.

17 For to bring it back to your searches and
18 whatnot, same kind of questions whether you did a
19 search for availability of pentobarbital and if so
20 what was the result of that?

21 A. It is available.

22 MS. STRAIT: You said it is available?

23 THE WITNESS: It is.

24 Q. And from whom?

25 A. I believe AmeriSourceBergen.

1 Q. Now, we had previously excluded Franklin
2 Medical Center from our discussions about drug
3 inquiries and drug requests. Has there ever been any
4 point where the people at, anybody at Franklin
5 Medical Center within the last 24 months would have
6 made inquiries about the availability of any of the
7 drugs that we talked about here today?

8 A. Amitriptyline would have been a
9 possibility.

10 Q. And did they inquire about availability of
11 amitriptyline powder?

12 A. No.

13 Q. Would you know whether drugs supplied to
14 Franklin Medical Center would then have been
15 transferred to Southern Ohio Correctional Facility to
16 be used for executions?

17 A. No.

18 MS. CARWILE: No, you don't know or you --

19 A. No, that wouldn't have been.

20 Q. So to clarify, to your knowledge would
21 drugs that have been supplied by PSC to Franklin
22 Medical Center ever be transferred to Southern Ohio
23 Correctional Facility to be used for executions?

24 A. No.

25 Q. So I think the only thing we have left to

1 do here is to go through some of these exhibits.

2 (Discussion off the record.)

3 Q. We're back on the record.

4 This would be Deposition Exhibit 4.

5 (DEPOSITION EXHIBIT 4 MARKED.)

6 Q. We've handed you what's been marked as
7 deposition Exhibit 4. Do you recognize this
8 particular document, sir?

9 A. I do not.

10 Q. Based on -- do you have any idea what this
11 document is?

12 A. Sure.

13 Q. Tell me what the document is if you could.

14 A. It would be the top 50 drugs for
15 Department of Corrections in the second quarter of
16 2019. I'm sorry, excuse me, yeah, that's correct.

17 Q. Second quarter fiscal year '19?

18 A. Fiscal year, yeah.

19 Q. And No. 36 on page 2, am I right that says
20 that amitriptyline is the 36th most purchased drug by
21 ODRC for that second quarter of fiscal year 2019?

22 A. By dollar amount, correct.

23 Q. That's what I was going to ask. So by
24 dollar amount, and how many units of amitriptyline
25 was that involving just for that third or second

1 quarter of fiscal year 2019?

2 A. 1,266?

3 Q. When it says "units," what does that mean.

4 A. I did not create this document but I'm
5 guessing it's bottles.

6 Q. So it's not capsule or not tablets, it's
7 packages of some sort?

8 A. Yes. If I can have a chance to think here
9 a second I may be able to figure it out specifically.

10 Q. Absolutely. And I'll just represent to
11 you this is one of the spreadsheets that was turned
12 over to us in discovery in native format so there's
13 no Bates number.

14 MS. CARWILE: There would have been one
15 associated with it in the imaging cover file though.
16 The numbers should be the same as, so if you, the
17 file name should be the same.

18 MR. BOHNERT: The digital file name? I
19 apologize, I don't remember what the digital file
20 was.

21 A. I would believe that would be bottles.

22 Q. Of amitriptyline?

23 A. Correct.

24 Q. So the next document here is Deposition
25 Exhibit 5.

1 (DEPOSITION EXHIBIT 5 MARKED.)

2 Q. Steve, do you recognize this Exhibit 5?

3 A. I do.

4 Q. And can you describe it for us for the
5 record?

6 A. It would be the formula of medications
7 that are approved, formulary of medications that are
8 approved for DRC.

9 Q. And what does that mean? Help us
10 understand what that means.

11 A. Many times formularies are used to be a
12 cost containment method. So you ensure that the
13 drugs on a formulary are what the prescribers are
14 using which is the most cost-effective of that
15 particular.

16 Q. So would it be accurate to say that if
17 something shows up on a formulary, then that is a
18 drug that is going to be generally expected to be
19 acquired regularly?

20 A. Yes.

21 Q. And this list, the ODRC formulary was last
22 updated when?

23 A. 9 of 2017.

24 Q. This particular document I should say.

25 A. Yes.

1 Q. Is Bates stamped in the corner OPS
2 underscore 000264? And does this ODRC Formulary
3 Drugs include a list of amitriptyline?

4 A. It does.

5 Q. Does it include a listing for digoxin?

6 A. It does.

7 Q. Does it include --

8 (Discussion off the record.)

9 Q. So for the record in this Exhibit 5
10 amitriptyline is there in first column, right?

11 A. Correct.

12 Q. And digoxin is there in the third column
13 on the first page, right?

14 A. Correct.

15 Q. Does it also include -- actually don't
16 have to ask about that.

17 On the second page does it include
18 propanolol? On the third column, sorry.

19 A. Yes.

20 Q. Moving on. This is Exhibit 6.

21 (DEPOSITION EXHIBIT 6 MARKED.)

22 Q. Do you recognize this Exhibit 6?

23 A. I don't specifically recognize it.

24 Q. Do you know what it is?

25 A. Yes.

1 Q. And what is it?

2 A. It's the Department of Corrections
3 formulary for drugs.

4 Q. And was last updated on when?

5 A. 9 of 2017.

6 Q. For the record what is the Bates number in
7 the lower right-hand corner?

8 A. OPS underscore 000267.

9 Q. So this is the ODRC formulary for drugs
10 updated 9/17. Help me understand the difference
11 between Exhibit 5 that was the ODRC formulary for
12 drugs updated 9/17 and this Exhibit 6. I was going
13 to say maybe this Exhibit 6 is brand names whereas
14 the others were not?

15 A. No.

16 Q. But that doesn't seem to hold true.

17 A. No. Appears that one has more than the
18 other. But I don't specifically know the difference.

19 Q. Okay. I literally wanted to know kind of
20 what I was looking at here and knowing what the
21 difference is and doesn't sound like this is
22 something that I'm not the only dummy then that
23 doesn't know the difference.

24 A. No, I'm included.

25 Q. This is Exhibit 7.

1 (DEPOSITION EXHIBIT 7 MARKED.)

2 Q. And do you recognize or do you know what
3 Exhibit 7 is?

4 A. Yes.

5 Q. And explain it for us for the record,
6 please.

7 A. Department of Corrections top 50 spend for
8 the first quarter of fiscal year 2019 by dollar.

9 Q. And does this list include amitriptyline?
10 No. 24.

11 A. Thank you. Yes, it does.

12 Q. And approximately how much was spent on
13 amitriptyline by ODRC in the first quarter of 2019?

14 A. \$100,227.17.

15 Q. For how many bottles?

16 A. 1559.

17 Q. This is Exhibit 8.

18 (DEPOSITION EXHIBIT 8 MARKED.)

19 Q. Do you recognize this Exhibit 8?

20 A. I do.

21 Q. And what is it?

22 A. It was an email sent to us regarding
23 medications and/or strengths of products that were
24 added and that were taken off the formulary.

25 Q. So added and taken off of which formulary,

1 to clarify?

2 A. This would be the Department of
3 Corrections formulary.

4 Q. And what's the date of this email?

5 A. September 6, 2018.

6 Q. And the Bates Stamp number in the lower
7 right-hand corner is what?

8 A. OPS underscore 000770.

9 MR. BOHNERT: And so just so you know kind
10 how we'll wrap things in here, I'm just going to want
11 a confirmation these are all documents that you guys
12 provided to us in discovery. The reason I ask is
13 some of them are obvious because they have the OPS
14 Bates stamp in the corner but some of them are from
15 the native file format so they don't have that. I
16 just want to make sure that we're not going to end up
17 with a fight with them later on down the road about
18 whether all of these are authentic.

19 Q. (By Mr. Bohnert) So the two recipients on
20 Exhibit 8, Steven Knight is the first one, that's
21 you, right?

22 A. Correct.

23 Q. So have you seen this email before?

24 A. Yes.

25 Q. And under "Changes," do you see that?

1 A. Yes.

2 Q. What does the first line under Changes
3 say?

4 A. Amitriptyline was removed from Mental
5 Health formulary for DRC but still can be used by
6 medical, by medical for pain, migraines, prevention,
7 so use might decrease.

8 Q. And why was it that this decision was
9 made?

10 A. I can't specifically speak to that because
11 that is part of the committee that manages the
12 formulary for the Department of Corrections which is
13 the Department of Corrections.

14 Q. Was there a concern about amitriptyline
15 for some reason? To your knowledge --

16 A. Not to my knowledge.

17 Q. -- that prompted this?

18 A. Not to my knowledge.

19 Q. Do you have any idea why DRC might have
20 been wanting to have use of amitriptyline decreased?

21 A. Other than what it states here is removed
22 from Mental Health formulary.

23 Q. So you don't have any idea why.

24 A. No.

25 Q. Exhibit 9.

1 (DEPOSITION EXHIBIT 9 MARKED.)

2 Q. Do you recognize Exhibit 9?

3 A. I do.

4 Q. And what is it?

5 A. It is the Department of Corrections top 50
6 spend for fiscal year, third quarter of the fiscal
7 year 2019.

8 Q. And on the row No. 44 on the second page
9 what do we see?

10 A. Amitriptyline.

11 Q. For how many bottles?

12 A. 1127.

13 Q. And for how much?

14 A. \$44,127.54.

15 Q. And this is money that DRC is spending for
16 these particular products in this chart, correct?

17 A. That's correct.

18 Q. And same with those other similar charts?

19 A. Correct.

20 (DEPOSITION EXHIBIT 10 MARKED.)

21 Q. Sir, you've been handed Exhibit 10. Do
22 you recognize this particular document?

23 A. Yes.

24 Q. And what is it, if you can give us a
25 description of it?

1 A. It is an email just giving a particular
2 opinion based on some of the operations of DRC.

3 Q. And dated when?

4 A. October 10 of 2018.

5 Q. And are you listed as a recipient of this
6 email?

7 A. Yes.

8 Q. And what is the Bates number in the lower
9 right-hand corner, please?

10 A. OPS underscore 006873.

11 Q. And there at the first line does that
12 first description, that first sentence there confirm
13 what you had said earlier about those three
14 spreadsheets that we've seen on the units talking
15 about bottles of amitriptyline?

16 A. Yes.

17 Q. And at No. 8, there's nine bullet points,
18 No. 8, do you see that one?

19 A. Yes.

20 Q. Can you read that for us?

21 A. "We removed some mental health medications
22 from the formulary effective December 1, so might see
23 slight decrease next quarter on these medications
24 (amitriptyline/venlafaxine/mirtazapine). Will follow
25 these to see what the difference might be."

1 Q. Do you have any idea why those were, why
2 that amitriptyline was removed from the formulary
3 effective December 1?

4 A. No.

5 Q. That was effective December 1 of what
6 year?

7 A. Would have been 2018 for fiscal year 2019.
8 (DEPOSITION EXHIBIT 11 MARKED.)

9 Q. Do you recognize Exhibit 11?

10 A. I do not.

11 Q. Can you tell us what it is at least?
12 MS. STRAIT: Objection.

13 Q. To your knowledge. What does it appear to
14 be?

15 A. I'll have to read this.

16 Q. Okay.

17 A. To my knowledge it is an email chain
18 between people discussing the use of two medications
19 at the same time.

20 Q. And what were those medications to your
21 knowledge?

22 A. Amitriptyline and nortriptyline.

23 Q. Nortriptyline, right?

24 A. Yes.

25 Q. And there in the top part of the email

1 there's a sentence where the person who appears to
2 be, would be Kathryn Burns. Do I read that
3 correctly, that she would have been the person who
4 wrote that top section?

5 A. It does appear so.

6 Q. And what is her assessment of using both
7 nortriptyline and amitriptyline at the same time?

8 MS. STRAIT: I'm going to object. He's
9 simply reading the words, which we can all do. The
10 witness has already said that he has no knowledge of
11 this document.

12 MR. BOHNERT: But he's also the 30(B)(6)
13 representative who is here to talk about documents
14 that were produced by the Agency. So, and this is a
15 document that was produced by the Agency.

16 MS. STRAIT: Right, but he has no more
17 knowledge than the rest of us do about the words on
18 this paper. The document speaks for itself.

19 MR. BOHNERT: Okay. I need to explore a
20 couple things with him about it so I need to have him
21 make sure we have in the record what the words are.

22 MS. STRAIT: Continuing objection as to
23 this document.

24 Q. (By Mr. Bohnert) I should have asked.
25 What is your education kind of professional

1 background? Are you a pharmacist by training?

2 A. No.

3 Q. Do you, help me understand what your
4 education is so I know what your level of
5 understanding about these products pharmaceuticals
6 is.

7 A. Business administration.

8 Q. So if I just simply stated that it appears
9 that Ms. Burns in this email said that there would be
10 no reason to give, that there would be lots of
11 reasons to not continue to give both amitriptyline
12 and nortriptyline at the same time given the number,
13 given the number of antidepressant types available
14 that aren't lethal in OD. Did I read that correctly?

15 A. Correct.

16 Q. Do you have any idea what that means?

17 A. My assumption would be in an overdose.
18 (DEPOSITION EXHIBIT 12 MARKED.)

19 Q. Do you recognize Exhibit 12, sir?

20 A. I do not.

21 Q. In the corner there do you see the Bates
22 stamp number?

23 A. Yes.

24 Q. And can you read that for us?

25 A. OPS underscore 025463.

1 Q. So you said you don't recognize it but do
2 you know what this document is?

3 A. Yes. It's a kind of a compliance
4 monitoring that is filled out by DRC, in this case
5 FMC A and B regards to Central Pharmacy Inpatient.

6 Q. FMC A and B is what?

7 A. Franklin Medical Center.

8 Q. Is this something that is specific to
9 Central Pharmacy Inpatient?

10 A. Correct.

11 (DEPOSITION EXHIBIT 13 MARKED.)

12 Q. Do you recognize Exhibit 13, sir?

13 A. I do.

14 Q. And can you tell us what it is?

15 A. It is an invoice from Pharmacy Services to
16 Department of Corrections.

17 Q. Specifically which facility with the
18 Department of Corrections?

19 A. Southern Ohio Correctional Facility.

20 Q. And what is the Bates stamp number down
21 there in the lower right-ish corner?

22 A. OPS underscore 025562.

23 Q. And what is this invoice for?

24 A. Midazolam, potassium chloride, potassium
25 chloride, and rocuronium bromide.

1 Q. Just so I understand because I am seeing
2 three different dates on the invoices and three
3 different invoice numbers.

4 A. Yes.

5 Q. This was turned over to us as one file so
6 I just want to make sure I am understanding what I'm
7 looking at here. Would these invoices, are these
8 three separate invoices?

9 A. Yes.

10 Q. So do these represent three separate
11 purchase transactions?

12 A. Correct.

13 Q. And are each of these transactions of
14 drugs to be provided from PSC to DRC Employee No. 1
15 for use in executions?

16 A. Yes.

17 Q. Yes?

18 A. I don't specifically know what they're
19 used for but, yes, they were provided to DRC Employee
20 No. 1.

21 Q. Now, just so I understand, the date on the
22 invoice, how did that correlate with the date of the
23 transaction typically in these situations?

24 A. So the date of the transaction would be
25 the date that the product is actually picked in our

1 warehouse, picked, packed, what we consider shipped
2 in our warehouse. The invoice would be invoiced at a
3 later date.

4 Q. So the date that says shipped date, is
5 that the date of the actual transfer of the drugs
6 from PSC's possession to DRC Employee No. 1 then on
7 these documents?

8 A. Not a hundred percent true. This could
9 have been picked, packed, and done the night before
10 and actually picked up like the next morning.

11 Q. But it's at least very close in time.

12 A. Yes.

13 Q. Would these kind of documents ever be
14 backdated for any reason?

15 A. Never.

16 Q. Would they ever be front-dated in any
17 situation?

18 A. Never.

19 (DEPOSITION EXHIBIT 14 MARKED.)

20 Q. Do you recognize Exhibit 14?

21 A. Yes.

22 Q. Take a second to flip through there and
23 make sure that you know everything that's in here.
24 Have you had a chance to look?

25 A. Yes.

1 Q. So tell me what it is that I'm looking at
2 here in the pages -- well, let me back up.

3 The Bates stamp in the corner starts at
4 what number?

5 A. OPS underscore 025469.

6 Q. And are the numbers consecutive all the
7 way through to the last page?

8 A. Yes.

9 Q. And that last page number is what?

10 A. OPS underscore 025487.

11 Q. Help me understand what it is that I'm
12 looking at in these pages on Exhibit 14.

13 A. This is a packing slip from Ohio Pharmacy
14 Services for a particular pick operation that we did.

15 Q. And looking through here the drugs that
16 are listed in here are all drugs that are used for
17 executions. Is that your knowledge? Or do you have
18 knowledge that these are all drugs that were used or
19 are used in Ohio's execution protocol?

20 A. I have not been involved that these are
21 specifically used for that reason.

22 Q. Are these all drugs that would have been
23 picked, packed, and shipped by Ohio Pharmacy Service
24 Center at DRC Employee No. 1's request?

25 A. Yes.

1 Q. So one of the questions I did have is it
2 says Carrier on all of these things, these packing
3 slips says Carrier and says "Athens Carrier." My
4 understanding is that DRC Employee No. 1 is the one
5 personally picking these things up so I just want to
6 make sure I understand what Athens Carrier means.

7 A. So any delivery to that facility that we
8 would have made would have been on what we call our
9 Athens route.

10 Q. So that's not like a private FedEx
11 competitor or a courier or anything like that.

12 A. Oh, no.

13 Q. Gotcha. And so when DRC Employee No. 1
14 takes the drugs from the warehouse and then delivers
15 them to SOCF, is that for PSC's purposes considered a
16 delivery?

17 A. Could you restate that?

18 Q. I'm not trying to trick you or anything,
19 I'm just trying to understand. Like it says Athens
20 Carrier and you said that means the route for
21 delivery.

22 A. Yes.

23 Q. But it's my understanding DRC Employee
24 No. 1 is the one who's actually literally driving
25 that route for these drugs listed here in Exhibit 14.

1 So I guess I'm just wondering in that situation is
2 DRC Employee No. 1 considered sort of delivering the
3 drugs for PSC?

4 A. No. We would consider that a customer
5 pickup and when it's picked up by that person there
6 was no true delivery done by us.

7 Q. So I guess that was part of my confusion
8 why there would be a carrier listed if there's a
9 customer pickup.

10 A. Just with technical system issues to
11 change that for something different. It's just not
12 the most easy way to do.

13 (DEPOSITION EXHIBIT 15 MARKED.)

14 Q. Same question I'll ask you to identify the
15 Bates number in the lower right-hand corner.

16 A. Okay.

17 Q. Do you recognize this Exhibit 15?

18 A. I do.

19 Q. And tell me what is comprised here in
20 Exhibit 15.

21 A. This is a purchase order from Ohio
22 Pharmacy Services to AmeriSourceBergen.

23 Q. That's what's on the first page, correct?

24 A. Correct.

25 Q. So the first page is Bates stamped number

1 what?

2 A. OPS underscore 025488.

3 Q. And this first purchase order is dated
4 when?

5 A. July 8, 2016.

6 Q. And it's for what product?

7 A. Midazolam.

8 Q. And it's from what vendor?

9 A. AmeriSourceBergen.

10 Q. Is West Ward Pharmaceuticals the
11 manufacturer of that particular batch of midazolam?

12 A. That's correct.

13 Q. Help me understand what it means when it
14 says "pack size 50."

15 A. That would indicate that this had 50 vials
16 in that. Actually I think would be 25 vials of
17 2 milligrams. So, or milliliters, sorry.
18 50 milliliters. Of that product.

19 Q. So the 50 if we were to do units on it 2
20 would be 50 milliliters total, not the number of
21 vials.

22 A. Correct.

23 Q. And that was for July 8, 2016, for
24 midazolam.

25 Next page, what does that show us?

1 A. Rocuronium bromide.

2 Q. Purchased when?

3 A. July 18 of 2016.

4 Q. From whom?

5 A. AmeriSourceBergen.

6 Q. The next page, what does the next page
7 show us OPS underscore 025490?

8 A. That's a purchase order from Ohio Pharmacy
9 Services to Gulf Coast Pharmaceuticals.

10 Q. And what was the date on that?

11 A. July 28, 2016.

12 Q. And so which vendor?

13 A. Gulf Coast Pharmaceuticals.

14 Q. And for what product?

15 A. Potassium chloride.

16 Q. The next page, well, before we get to that
17 page let's stay on the one with Gulf Coast
18 Pharmaceuticals. So we've got product here from
19 AmeriSourceBergen being sold at a time when my
20 understanding is AmeriSourceBergen had the sort of
21 sole contract with OPS; is that right?

22 A. No, that is not correct.

23 Q. Okay, help me understand why not.

24 A. It would, the sole contract would have
25 been HG Smith at that time.

1 Q. Premerger.

2 A. Premerger.

3 Q. Okay. So then the next one there's a
4 purchase order on 7/28/2016 from Gulf Coast
5 Pharmaceuticals, that's not the company that had the
6 sole source contract either, is it?

7 A. Correct.

8 Q. So do you have any knowledge why these
9 purchases from AmeriSourceBergen in 2016 and Gulf
10 Coast Pharmaceuticals Plus were made, in 2016 were
11 made from those entities and not the --

12 A. Available product from that vendor.

13 Q. So the next page then on OPS underscore
14 025491 shows us what?

15 A. Purchase order from Ohio Pharmacy Services
16 to Gulf Coast Pharmaceuticals.

17 Q. On what date.

18 A. 8/24/2016.

19 Q. And for what product?

20 A. Potassium chloride.

21 Q. So help me understand then when the
22 product is not one that's sitting on the shelf in the
23 warehouse but it's coming from Gulf Coast
24 Pharmaceuticals or AmeriSourceBergen and it says
25 date, what is that the date of?

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1 A. That is the date that the purchase order
2 was created.

3 Q. So the date of the actual sale might be
4 something different? Or I guess help me understand,
5 how do I know what the date of the sale is? On these
6 documents.

7 A. And the sale being from that vendor to us?

8 Q. Correct.

9 A. "Sale" is a little vague for me.

10 Q. What would you use?

11 A. Actual receipt of the product.

12 Q. Okay.

13 A. Actual shipment from them, actual when
14 they invoiced, when the invoice was due, those are
15 all different dates throughout this process.

16 Q. That's why you're the manager and I am
17 just a lawyer asking you questions about this.

18 So the date of delivery it says 8/24/2016.
19 Is that the date on which OPS received the products
20 here on OPS underscore 025491?

21 A. It should not be, no.

22 Q. Should not be?

23 A. The date that we received it?

24 Q. No, down here below in the body that says
25 delivery 8/24/2016.

1 A. Sorry. So that date is actually
2 calculated automatically by the system based on the
3 lead time that was put in for that particular vendor.
4 So if a lead time was not put in for that vendor it
5 would assume the same day.

6 Q. So the next page then, is that a similar,
7 kind of reflecting a similar kind of transaction
8 9/22/2016 from Gulf Coast Pharmaceuticals?

9 A. Exactly.

10 Q. Potassium chloride, rocuronium bromide.
11 The next page looks a little different but
12 that just might be the scan.

13 A. Wow.

14 Q. There's some handwriting on page OPS
15 underscore 025493. Do you see that?

16 A. I do.

17 Q. Just in general what does this purchase
18 order reflect?

19 A. The purchase order from Ohio Pharmacy
20 Services to AmeriSourceBergen.

21 Q. Purchase from AmeriSourceBergen by Ohio
22 Pharmacy Services?

23 A. Yes.

24 Q. Of what product?

25 A. Midazolam.

1 Q. And approximately when?

2 A. 10/3/2016.

3 Q. Now, down in the body of this document
4 there's some handwriting. Do you see that?

5 A. Yes.

6 Q. And what does that handwriting say?

7 A. \$50 plus delivery fee. Give a
8 confirmation number and a hot shot.

9 Q. What does "hot shot" mean?

10 A. Hot shot means that it was delivered the
11 same day.

12 Q. Okay. Delivered from whom to whom?

13 A. AmeriSourceBergen to Pharmacy Service
14 Center.

15 Q. Now, okay, the address I see on here for
16 AmeriSourceBergen is Chicago, right?

17 A. Correct.

18 Q. Help me understand, well, first of all,
19 was that product coming from Chicago?

20 A. No.

21 Q. And where was it coming from?

22 A. Columbus area.

23 Q. So does AmeriSourceBergen have like a
24 facility here in Columbus?

25 A. Distribution center, yes.

1 Q. Would there have been a particular reason
2 why that would have been requested to be a hot shot?

3 A. The request would have been to have it in
4 stock right away.

5 Q. And that was again on October 3, 2016, or
6 thereabouts?

7 A. Yes.

8 Q. And the next page there shows what?

9 A. A purchase order to Capital Wholesale from
10 Ohio Pharmacy Service Center.

11 Q. On approximately what date?

12 A. 10/24/2016.

13 Q. For what product?

14 A. Midazolam.

15 Q. The next page shows us what?

16 A. This is a purchase order to Capital
17 Wholesale from Pharmacy Service Center.

18 Q. And what date?

19 A. 11/25/2016.

20 Q. And do we know for what product?

21 A. We do.

22 Q. What product is that?

23 A. Midazolam.

24 Q. And how do we know that? Because I don't
25 see the name there.

1 A. Yeah. If you see the 210282551V, that is
2 our internal product number.

3 Q. So that's OPS's internal product number
4 for midazolam?

5 A. Midazolam, that strength, that pack size,
6 all of that. Specific.

7 Q. And again at that time in 2016 Capital
8 Wholesale Drug was not the contract vendor with OPS,
9 correct?

10 A. Correct.

11 Q. So this would have been a special order
12 outside of the ordinary transaction procedures?

13 A. Correct.

14 Q. Next page shows us what?

15 A. Purchase order from Ohio Pharmacy Service
16 to AmeriSourceBergen.

17 Q. Dated when?

18 A. 12/30/2016.

19 Q. Now I see it says revision number 1. What
20 does that mean?

21 A. Because of where this, because this was a
22 historical document that was printed, it had a format
23 showed revision 1 which would have been the very
24 first printing of it.

25 Q. So the purchase date or date of this order

1 is 12/30/2016 for what product?

2 A. I'll have to look back and see.

3 Potassium chloride.

4 Q. And you know that based on what?

5 A. The PSC internal part number.

6 Q. Next page same kind of questions, explain
7 for us what we're seeing here, the date and the
8 product.

9 A. Purchase order from Pharmacy Service
10 Center to Capital Wholesale on 12/30/2016 for
11 midazolam.

12 Q. Next page, same questions.

13 A. Purchase order from Pharmacy Service
14 Center to Capital Wholesale Drug January 3, 2017, for
15 midazolam.

16 Q. Next page?

17 A. Purchase order from Pharmacy Service
18 Center to AmeriSourceBergen on 4/11/2017 for I
19 believe that was potassium chloride. Potassium
20 chloride.

21 Q. Next page?

22 A. Purchase order from Pharmacy Service
23 Center to Gulf Coast Pharmaceuticals on April 12,
24 2017, for rocuronium bromide from Gulf Coast.

25 Q. Next page?

1 A. Purchase order from Pharmacy Service
2 Center to AmeriSourceBergen for midazolam on
3 4/21/2017.

4 Q. Now, 210282551V, that's midazolam?

5 A. Let me verify.

6 No, it is midazolam.

7 Q. But just a different size bottle,
8 different concentration maybe than the midazolam
9 shown on page 1 of Exhibit 15, because those numbers
10 don't seem to match up.

11 A. Correct. It's 10 milligrams for 2 ML and
12 2 ML vial. 2551 is also midazolam but it's
13 5 milligrams per ML.

14 Q. Okay. The next page same questions as to
15 what we're seeing here.

16 A. Is that ending in 502?

17 Q. Yes.

18 A. Again, that would be a purchase order from
19 PSC to AmeriSourceBergen on 11/8/2017 for midazolam
20 again.

21 Q. Next page?

22 A. Purchase order from Pharmacy Service
23 Center to Gulf Coast for potassium chloride.

24 Q. Next page, same thing.

25 A. Correct.

1 Q. Potassium chloride order from who?

2 A. This would have been a credit card
3 payment. On this document I can't tell you for sure
4 who it was.

5 Q. Okay, fair enough. But if we found
6 another document that showed a purchase on or about
7 11/27/2017 for a quantity of potassium chloride,
8 would we be able to accurately conclude that the
9 vendor for that would be whoever is listed on that
10 other document that was a vendor listed?

11 A. Typically we're not going to have multiple
12 purchase orders for the same purchase.

13 Q. A purchase order and invoice are two
14 different things, right?

15 A. Correct. A purchase order is the
16 commitment from us to the vendor that we are wanting
17 to buy it. An invoice from the vendor would be that
18 you got this product, now you're going to pay for it.

19 Q. So I guess I'm just trying to figure out
20 how we can be able to know who the vendor is on this
21 particular product, OPS underscore 025504, credit
22 card payment. If, for instance, we found an invoice
23 that corresponds to this purchase would we be able to
24 accurately conclude that was the vendor?

25 A. I would say if that invoice shows that

1 there is no payment due.

2 Q. Okay.

3 A. Because we would have paid this with a
4 credit card.

5 Q. I gotcha. Good point.

6 The next page here.

7 A. Yes.

8 Q. It shows us what?

9 A. Purchase order from Ohio Pharmacy Services
10 to Gulf Coast on 8/1/2018 for rocuronium bromide.

11 Q. And when you say Gulf Coast you mean that
12 is shorthand for Gulf Coast Pharmaceuticals Plus?

13 A. Sorry, yes.

14 Q. Next page?

15 A. Purchase order from Ohio Pharmacy Services
16 to Gulf Coast Pharmaceuticals Plus on 9/19/2018 for
17 potassium chloride.

18 Q. Last page?

19 A. Purchase order from Ohio Pharmacy Service
20 Center to AmeriSourceBergen on 1/9/2019 for
21 midazolam.

22 MS. CARWILE: Are you going to be going
23 through page by page of any of other ones?

24 MR. BOHNERT: I think that will probably
25 solve this.

1 MS. CARWILE: Because it's past 1:30 and
2 there's multiple pages. And we've skipped lunch.

3 MR. BOHNERT: Let me go with this, I do
4 want to make sure that I have a way that I can have
5 confirmed that these are authentic and that they are
6 what they show to be.

7 MS. FRANKE: That's fine, we just want to
8 break for lunch if you want to do that.

9 MS. STRAIT: We can stipulate to that. We
10 don't need you to go through page by page.

11 MR. BOHNERT: I'm not sure if you need to
12 stipulate to that or you need to stipulate to that.

13 MS. CARWILE: I just was going to say if
14 you want to go through them page by page, we need a
15 break and we need lunch. I don't care if you want to
16 go through page by page.

17 MR. BOHNERT: I'd rather not. We've got a
18 midnight deadline for a whole bunch of other stuff,
19 so every minute that we spend here I'm backing up
20 against a midnight deadline.

21 If we can come up with a way to agree we
22 don't have to have him to identify that these are,
23 that they reflect purchases as they say they are and
24 they're authentic, we can.

25 MS. CARWILE: I think we can work

1 something out. They're not my documents so I can say
2 I can let you know that I can note that these, if
3 they have a Bates stamp that these are what was
4 produced to you, what I had received from OPS and we
5 can probably work something out with OPS that these
6 are their documents. We can work it out I think
7 after the deposition.

8 MS. STRAIT: So these documents were all
9 produced by OPS.

10 MS. CARWILE: Correct.

11 MS. STRAIT: And they're reflective of
12 Bates numbers then why can't we simply stipulate that
13 these are true and correct copies of documents that
14 were in the possession of OPS?

15 MR. BOHNERT: That's what I say, I don't
16 know whether that's your stipulation or your
17 stipulation.

18 MS. STRAIT: I would be happy to stipulate
19 to that, OPS is willing to stipulate to that.

20 MS. FRANKE: I haven't looked through
21 them.

22 MS. STRAIT: These are all Bates stamped
23 by OPS, what else would they be?

24 MS. CARWILE: The only ones that I would
25 want to verify would be the Excel spreadsheets. I'm

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1 not saying you would have changed anything but to be
2 able to tell whether they are the same document we
3 would have to compare with what we had produced
4 because it was a native and could be changed.

5 MR. BOHNERT: We can do an affidavit.

6 MS. CARWILE: We can do an affidavit.

7 MR. BOHNERT: We just did Exhibit 15.
8 This will be marked as 16.

9 (DEPOSITION EXHIBIT 16 MARKED.)

10 Q. (By Mr. Bohnert) For purposes of the
11 record do you recognize what Exhibit 16 is?

12 A. I do.

13 Q. And does it contain, well, you tell me
14 what it contains just so we can make sure that we're
15 all on the same page on the record. Not page by
16 page, just generally what is in this Exhibit 16.

17 A. Okay. Generally it is our invoice, Ohio
18 Pharmacy Services invoice to Department of
19 Corrections, Southern Ohio Correctional Facility for
20 products purchased by them just detail behind it.

21 Q. And it is OPS underscore 000740 through
22 OPS under score on 000757, did I read that correctly?

23 A. Correct.

24 Q. So that's Exhibit 16.

25 (DEPOSITION EXHIBIT 17 MARKED.)

1 Q. Do you recognize what the documents are
2 here in Exhibit 17?

3 A. I do.

4 Q. And just for the record can you tell us
5 what they are in general?

6 A. They are invoices from our vendors to the
7 Ohio Pharmacy Services.

8 Q. And is it for drugs that have been
9 requested by DRC Employee No. 1?

10 A. Generally speaking, yes.

11 Q. That's Exhibit 17. So as I see it OPS
12 underscore 025508 through the last page of that
13 document, that exhibit is OPS underscore 025529, did
14 I read that correctly?

15 A. Yes.

16 (DEPOSITION EXHIBIT 18 MARKED.)

17 Q. Do you recognize what Exhibit 18 is?

18 A. I do.

19 Q. And just in general can you tell us what
20 that document appears to be?

21 A. An invoice from Ohio Pharmacy Services to
22 Department of Corrections, Southern Ohio Correctional
23 Facility with backup documentation.

24 Q. And is the first Bates number OPS
25 underscore 025530?

1 A. Yes.

2 Q. And the last one OPS underscore 025547?

3 A. Yes.

4 Q. Just had a quick question about a page in
5 the middle of it, OPS underscore 025537 appears to be
6 a check from ODRC Operations Support Center to Ohio
7 Pharmacy Services. Do I understand that correctly?

8 A. That's correct.

9 Q. And how much did that appear to be?

10 A. \$20,000.

11 Q. And there's a handwritten note on the
12 bottom there above a stamp and what does that
13 handwritten note say?

14 A. "Front load."

15 Q. What does that mean?

16 A. Department of Corrections provides money
17 upfront to us that we, as we invoice against those,
18 against that so it's not a bill and pay and bill and
19 pay, bill and pay, it's just.

20 Q. Advance?

21 A. An advance.

22 Q. Or an account they can draw on?

23 A. Yes.

24 (DEPOSITION EXHIBIT 19 MARKED.)

25 Q. Do you recognize the documents that are in

1 Exhibit 19?

2 A. I do.

3 Q. And what do they appear to be?

4 A. These are purchase orders from Ohio
5 Pharmacy Service Center to vendors along with
6 invoices from that particular vendor for that
7 purchase order.

8 Q. First page is OPS underscore 025548,
9 right?

10 A. Yes.

11 Q. And the last page is OPS underscore
12 025561; is that right?

13 A. Yes.

14 Q. Real quick on page OPS underscore 025554,
15 let me know when you're there.

16 A. Okay.

17 Q. There's a handwritten note that appears to
18 me to say "call me" on the bottom of this toward the
19 bottom of this document. This purchase order is
20 regarding potassium chloride on 11/22/2017. Do you
21 have any idea what that involves, that handwritten
22 note?

23 A. I do not.

24 Q. Do you have any idea who wrote that?

25 MS. CARWILE: I'm going to instruct if

1 it's a name to use a person number designation.

2 Q. Sorry, I should have clarified.

3 A. And I don't know that I can make specific
4 even that it would have been a sourcing analyst's
5 handwriting.

6 Q. And who would that have been a message to?
7 Same issues, don't give me the names specifically
8 unless it was to you.

9 A. My speculation would have been this would
10 have been to the vendor. This would have been a fax
11 or an email type purchase order.

12 Q. And the last I believe is Exhibit 20.

13 (DEPOSITION EXHIBIT 20 MARKED.)

14 Q. Do you recognize Exhibit 20, sir?

15 A. I do.

16 Q. And what is it for us?

17 A. It's the Master Selection List of the, in
18 this case appears that it's just pharmaceuticals that
19 we offer for our customers to buy.

20 Q. So would this be like sort of an
21 inventory, not an inventory but like a shopping
22 catalog if I were a potential customer?

23 A. Yes.

24 Q. And this was prepared as of when?

25 A. 6/26/2019.

1 Q. And for the record it's OPS underscore
2 015155; is that right?

3 A. Yes.

4 Q. All the way through the backside last page
5 is OPS underscore 015224. Did I read that correctly?

6 A. Yes.

7 Q. Now, rather than going through the drugs
8 in here, just as a general proposition if a drug, a
9 pharmaceutical is listed in this Master Selection
10 Listing Items, does that mean that OPS has it already
11 in stock?

12 A. No.

13 Q. Does it mean that OPS already has it in
14 stock or could go get it in the marketplace
15 relatively easily?

16 A. Yes.

17 Q. So in other words to say it differently,
18 if a drug is listed in this Master Selection Listing
19 Items it would be able, DRC would be able to easily
20 purchase any of these drugs.

21 A. Yes.

22 Q. The last is just questions about
23 confirming about searches. So just to wrap up,
24 Steve, can you confirm under oath here for me today
25 that OPS conducted a diligent and volunteer search of

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1 all documents and records in its possession, custody,
2 and control that would be responsive to the subpoena
3 that was served on you by us and it's understood that
4 includes a different state agency did the actual
5 email or did the off-site records searches for
6 documents that were already in their possession?

7 MS. CARWILE: I'd like to caveat that a
8 little bit. It would be based on the agreed-upon
9 search term list between counsel.

10 MR. BOHNERT: Indeed.

11 A. Yes.

12 Q. And can you confirm under oath for us that
13 the documents and records produced by OPS in response
14 to the subpoena issued by Plaintiff Jackson are
15 authentic records maintained by OPS in the ordinary
16 course of its business?

17 A. Yes.

18 Q. And can you confirm that OPS has produced
19 all responsive emails including involving DRC
20 Employee No. 1 and any documents showing requests or
21 inquiries regarding drugs that would be used for
22 executions?

23 A. Again, based on the search list that was
24 agreed upon?

25 Q. I mean, yeah, that would be the list of.

1 MS. CARWILE: He was included in the list.

2 A. Yeah.

3 Q. So just to clarify, is it true that there
4 are no emails from or to DRC Employee No. 1 and OPS
5 in the discovery production that we received from
6 you?

7 A. Correct.

8 Q. And just to state the obvious then, can
9 you confirm that means there were no emails whether
10 as an inquiry or a request as we've used those terms
11 here today involving DRC Employee No. 1 and OPS
12 regarding amitriptyline?

13 A. Yes.

14 Q. And same as to secobarbital?

15 A. Yes.

16 MR. BOHNERT: One second to confer.

17 So believe it or not I don't have any
18 further questions at this time. I mean per our
19 agreement if there are any questions or anything
20 based on, the way I'd like to leave it is if on
21 further review on those documents that we didn't go
22 through page by page if there's a question about what
23 something means so that something I can contact you,
24 Ms. Carwile, and get an explanation whether that
25 means that you can explain to me and I will take the

1 representation or speaking directly with your client?

2 MS. CARWILE: We can work that out, yes.

3 MR. BOHNERT: And then the only question
4 then would be the issue of the review. My
5 understanding is you said you would like to still
6 retain your right to review.

7 MS. CARWILE: Yes.

8 MR. BOHNERT: So I have no further
9 questions.

10 MS. STRAIT: I do have extremely briefly.

11 --|--

12 EXAMINATION

13 BY MS. STRAIT:

14 Q. You were asked during this deposition
15 whether you had checked on the availability of
16 pentobarbital and you indicated, which is also known
17 as Nembutal and you indicated that you had checked
18 and it is available on the marketplace.

19 My question is is it available for OPS to
20 purchase on the, for the Department of Rehabilitation
21 and Corrections? Do you remember or not know?

22 A. To my response at that second I believe
23 that is true.

24 Q. Let me rephrase the question. Do you
25 recall back in 2014 or thereabouts, you said you've

1 been in your position since approximately 2013 or
2 2014?

3 A. Correct.

4 Q. Do you recall that there was an attempt to
5 purchase pentobarbital also known as Nembutal and the
6 manufacturer turned down OPS because it believed OPS
7 was going to be diverting those drugs to the
8 Department of Rehabilitation and Corrections?

9 A. Not to my knowledge.

10 Q. Then you're not familiar with what
11 happened at that time.

12 A. That's correct.

13 Q. Have you attempted to purchase
14 pentobarbital?

15 A. I have not.

16 Q. Are you aware that pentobarbital is, the
17 manufacturer has restricted the use for veterinary
18 purposes and in humans to only be distributed to
19 hospitals for treatment of epilepsy?

20 A. I am not.

21 Q. You're not familiar with that at all?

22 A. No.

23 Q. And have you made any attempt to actually
24 purchase pentobarbital?

25 A. No.

1 MS. STRAIT: I think that's it.

2 MR. BOHNERT: I have no further questions.

3 Just want to thank you or your time today. I know
4 it's warm, been a longer day that I anticipated but I
5 very much appreciate you helping me understand a lot
6 of this stuff that, frankly, I didn't know a lot of
7 this stuff, so very much appreciate it.

8 THE WITNESS: Thank you.

9 (Whereupon, at 1:54 p.m., the deposition
10 was concluded and signature was not waived.)

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1 AFFIDAVIT

2 State of Ohio)
3 County of _____) SS:

4 I, STEVEN KNIGHT, do hereby certify that I
5 have read the foregoing transcript of my deposition
6 given on Wednesday, August 7, 2019; that together
7 with the correction page attached hereto noting
8 changes in form or substance, if any, it is true and
9 correct.

10 _____
11 STEVEN KNIGHT

12 I do hereby certify that the foregoing
13 transcript of the deposition of STEVEN KNIGHT was
14 submitted to the witness for reading and signing;
15 that after he had stated to the undersigned Notary
16 Public that he had read and examined his deposition,
17 he signed the same in my presence on the _____ day
18 of _____, 2019.

19 _____
20 Notary Public

21 My commission expires _____, _____.
22
23
24
25

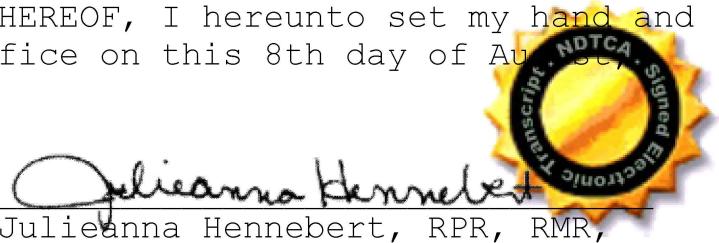
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CERTIFICATE

1
2 State of Ohio)
3 County of Franklin) SS:

4 I, Julieanna Hennebert, RPR and RMR, the
5 undersigned, a duly qualified and commissioned notary
6 public within and for the State of Ohio, do certify
7 that, before giving his deposition, STEVEN KNIGHT was
8 by me first duly sworn to testify to the truth, the
9 whole truth, and nothing but the truth; that the
10 foregoing is the deposition given at said time and
11 place by STEVEN KNIGHT; that I am neither a relative
12 of nor employee of any of the parties or their
13 counsel and have no interest whatever in the result
14 of the action.

15 IN WITNESS WHEREOF, I hereunto set my hand and
16 official seal of office on this 8th day of August,
17 2019.

18
19 
20 Julieanna Hennebert, RPR, RMR,
21 and Notary Public in and for the
22 State of Ohio.

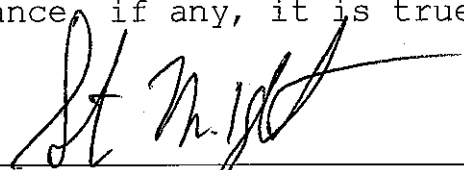
23 My commission expires February 19, 2023.
24 (3038-JLH)

25 --|--

AFFIDAVIT

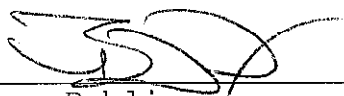
1
2 State of Ohio)
3 County of Franklin) SS: 298-78-5815

4 I, STEVEN KNIGHT, do hereby certify that I
5 have read the foregoing transcript of my deposition
6 given on Wednesday, August 7, 2019; that together
7 with the correction page attached hereto noting
8 changes in form or substance, if any, it is true and
9 correct.



STEVEN KNIGHT *et al* 298-78-5815

10 I do hereby certify that the foregoing
11 transcript of the deposition of STEVEN KNIGHT was
12 submitted to the witness for reading and signing;
13 that after he had stated to the undersigned Notary
14 Public that he had read and examined his deposition,
15 he signed the same in my presence on the 23rd day
16 of August, 2019.



Notary Public

17 My commission expires 17 July, 2021.

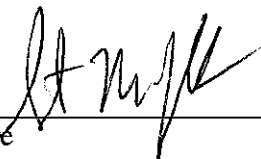


ERRATA SHEET

Please list any changes to your deposition below. Be sure to list the page, line, description of change and the reason for your change. Please sign and date when complete. While the changes are not physically made to the transcript, the errata sheet is forwarded to the ordering attorney and will be added as an addendum to your transcript.

<u>PAGE</u>	<u>LINE</u>	<u>DESCRIPTION OF CHANGE</u>	<u>REASON FOR CHANGE</u>
<u>37</u>	<u>16</u>	<u>ADD "Not" before our Source Analyst</u>	<u>"Not" was not in Transcript</u>
<u>62</u>	<u>3</u>	<u>change from H6 Smith to H "D" Smith</u>	<u>Wrong Initial</u>
<u>62</u>	<u>5</u>	<u>H6 Smith to HD Smith</u>	<u>Wrong initial</u>
<u>62</u>	<u>10</u>	<u>H6 Smith to HD Smith</u>	<u>Wrong initial</u>
<u>62</u>	<u>12</u>	<u>H6 Smith to HD Smith</u>	<u>Wrong initial</u>
<u>62</u>	<u>13</u>	<u>H6 Smith to HD Smith</u>	<u>Wrong initial</u>
<u>108</u>	<u>20</u>	<u>involved to informed</u>	<u>word error</u>
<u>109</u>	<u>28</u>	<u>H6 Smith to HD Smith</u>	<u>Wrong initial</u>
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Signature



Date

8/23/2019